



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

the case of
ALBANIA



Kingdom of the Netherlands



ЦЕНТАР ЗА ПРАВНИ
ИСТРАЖУВАЊА И АНАЛИЗИ
CENTER FOR LEGAL RESEARCH AND ANALYSIS



CIVIL
RIGHTS
DEFENDERS



GRAĐANSKA
ALIJANSA
Civic Alliance - Aleanca Qytetare

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

THE CASE OF ALBANIA AS A CANDIDATE COUNTRY

Tirana, May 2025

This guideline was prepared within the framework of the project “Strengthening regional judicial cooperation in the Western Balkans for effective litigation before the Court of Justice of the European Union and the implementation of the EU Charter of Fundamental Rights,” with the support of the Government of the Kingdom of the Netherlands.

The guideline was prepared by:

- Prof. Dr. Eralda (Methasani) Çani
- Dr. Darinka Piqani

This guideline was developed in close collaboration with Dr. Aida (Gugu) Bushati and the School of Magistrates of the Republic of Albania. We express our sincere gratitude to the School of Magistrates for the excellent cooperation and valuable support provided throughout the drafting and finalization of this guideline.

Table of Contents

I. Executive Summary	3
II. Methodological Summary	5
III. Introduction.....	6
IV. The Charter of Fundamental Rights as part of EU primary law and its application.....	6
V. Key CJEU Case Law on the Charter	14
VI. Implementation across Member States.....	19
VII. Implications for Candidate Countries (Enlargement)	22
VIII. Role of Local institutions in the implementation of the Charter ...	24
IX. Impact on Human Rights Protection and Key Challenges in Applying the CFREU in Albania	26
X. Gaps between Law and Practice.....	31
XI. Literature Review: The EU Charter of Fundamental Rights in Albania.....	32
XII. Alignment of Albanian Legislation and Judicial Practice with the Charter	33
XIII. Constitutional Court and the EU Charter	34
XIV. Capacity Building on the EU Fundamental Rights Charter	35
XV. Education and Awareness on the Charter.....	39
XVI. CONCLUSIONS.....	41
XVII. RECOMMENDATIONS.....	42

I. Executive Summary

The Charter of Fundamental Rights of the European Union (CFREU or The Charter) plays a crucial role in safeguarding human rights within the EU. While challenges exist, continued legal and political commitment is necessary to ensure its effective implementation and protection of fundamental freedoms for all EU citizens. Member states often encounter challenges in fully applying the Charter. This guideline aims to identify these challenges, analyse relevant case law and reports, and propose solutions to better align the Albanian national legal frameworks with the CFREU.

Albania has made notable progress in the European integration progress. Human rights related areas or judicial related, especially as related to legal reform in judiciary, anti-discrimination, minority rights, data protection have been revised aiming to align, among others, with the Charter. However, the gap between legal alignment and actual enforcement remains present. The Charter, while not yet directly applicable in Albania, plays a key role in shaping expectations for candidate countries in the EU accession process and is increasingly referenced in national law and judicial reasoning.

A number of central institutions, including the judiciary, play central roles in fundamental rights protection, their engagement with the Charter remains limited in depth and scope. Training initiatives, institutional integration, and public awareness of the Charter are underdeveloped. Academic literature and case law referencing the Charter are sparse, and its use as an interpretive tool in the courts is still in early stages.

Furthermore, challenges persist in judicial efficiency, implementation of oversight recommendations, and rights enforcement, particularly in areas such as freedom of expression, minority rights, and judicial independence. Despite EU support and Charter awareness efforts, Albania still needs to consolidate the practical application of the Charter principles across all state functions.

For EU candidate countries, like Albania, the CFREU is not directly binding until membership. However, alignment with the Charter's values

and principles is a de facto prerequisite for accession. The EU's founding treaties and the Copenhagen criteria require any candidate to demonstrate "stability of institutions guaranteeing democracy, the rule of law, human rights and respect for and protection of minorities"¹. This means that Albania must revise its legislation and administrative practice to ensure they uphold fundamental rights equivalent to EU standards.² The EU accession process requires adoption of the EU's *acquis communautaire*, which increasingly incorporates Charter principles. While the Charter's provisions will formally apply to Albania only upon EU membership, preparing for membership necessitates embedding the Charter's norms into Albania's legal and institutional framework. The European Commission's "fundamentals first" approach to enlargement puts rule of law and fundamental rights at the forefront of negotiations, underscoring that progress on human rights is decisive for overall accession progress.³ Also, specific training programs on EU fundamental rights, including the CFREU, are key to the requirement of incorporating the Charter principles. The European Commission's judicial training strategy for 2021–2024 explicitly calls for embedding EU law and the Charter in national training activities,⁴ Several EU supported projects have supported the School of Magistrates (SoM) in addressing the Charter, however, no dedicated training have been provided to the topic as a whole, as well as no dedicated materials are produced on the CFREU rights and the ECJ caselaw in the Albanian language. It is imperative for the SoM to address in its annual training programs topics on the CFREU and to work on respective written literature in the Albanian language.

¹ COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND THE COUNCIL Commission Opinion on Albania's application for membership of the European Union {SEC(2010) 1335}, at: [https://aei.pitt.edu/44521/1/Albania_opinion.pdf#](https://aei.pitt.edu/44521/1/Albania_opinion.pdf#:): (pg. 4).

² Several of the CFREU rights overlap with the ECHR rights, and Albania as an EU candidates is already signatory to the ECHR and other human rights treaties.

³ Conference on accession to the european union – Albania – Brussels, 11 April 2025 (OR. en), European Union common position – Cluster 2: Internal Market, accession document, states that "*The EU recalls that EU/EEA exhaustion of rights is a fundamental principle that underpins the single market, and that must be complied with by all Member States upon accession*". See at:

<https://data.consilium.europa.eu/doc/document/AD-4-2025-INIT/en/pdf>

⁴ See at: <https://ejtn.eu/news/celebrating-25-years-of-fundamental-rights-in-the-eu/#:~:text=tribunal>

II. Methodological Summary

The methodology for preparing this guideline on the challenges of Albania in the application of the EU Charter of Fundamental Rights (CFREU) consists of several key stages, incorporating both legal research and multi-stakeholder engagement.

An illustrative desk review has been conducted, examining EU law, national legislation, and CJEU case law—with particular focus on the scope and application of the EU Charter of Fundamental Rights, national procedural rules relevant to litigation before the CJEU, and existing gaps in legal protection not addressed by the ECHR or domestic constitutions. In addition, a review of the activity of the key national and regional stakeholders in relation to EU Charter took place, including judiciary, academia and practicing lawyers, national institutions such as Schools of Magistrates, legal training centres, and justice ministries, and institutions like the People's Advocate or the State Advocate's Office in Albania as per their role in the judiciary or human rights protection.

Focus areas of the research included:

- Identifying gaps in training and institutional capacity regarding the Charter;
- Assessing if curricula and judicial training programs address these topics sufficiently;
- Gathering concrete examples of challenges in judicial access, application of Charter rights.

Insights and best practices from other EU member states have been gathered and reflected in the paper. In addition, semi-structured interviews took place with the School of Magistrate's representatives who share valuable insights on the document.⁵

⁵ Meetings with Aida (Gugu) Bushati, as the key interlocutor from the School of Magistrate took place during the preparation of this guideline.

III. Introduction

The Charter of Fundamental Rights of the European Union is a cornerstone of human rights protection in the EU, ensuring fundamental freedoms and principles for all individuals within member states. It was proclaimed in 2000 and became legally binding in 2009 with the Treaty of Lisbon. According to Article 6 TEU, the Charter shall have the same legal value as the Treaties. It is a comprehensive “bill of rights” that consolidates fundamental rights applicable to individuals within the EU and reflects the EU's commitment to human rights, democracy, and the rule of law.

The CFREU is addressed to EU institutions and to member states when implementing EU law. It is a legally binding document, making it directly applicable in member states when they implement EU law. It does not extend the EU's competences beyond the Treaties, nor create new standalone causes of action against states absent an EU law context. The Charter shapes policies within the EU legal framework, and all member states courts must interpret national laws in line with the Charter.

IV. The Charter of Fundamental Rights as part of EU primary law and its application

The Treaty of Paris that founded the European Coal and Steel Community and the two Treaties of Rome that founded respectively the European Economic Community and the European Atomic Energy Community, did not contain provisions guaranteeing the protection of fundamental human rights. After all, the Communities were a project of economic cooperation aimed at ensuring peace in the European continent. Nevertheless, the Court of Justice embraced the protection of fundamental rights through the doctrine of ‘general principles of Community law’. Thus, in the case of Stauder⁶ the Court for the first time ruled that fundamental rights are “enshrined in the general principles of Community law and protected by the Court”. This was developed further in subsequent case law where the Court clarified that “respect for fundamental rights forms an integral part of the general principles of law protected by the Court of Justice. The protection of such rights, whilst inspired by the constitutional traditions

⁶ Case 29-69, Stauder v City of Ulm – Sozialamt.

common to the Member States, must be ensured within the framework of the structure and objectives of the Community.”⁷

In its case law on fundamental rights as part of general principles, the Court of Justice has identified two main sources of inspiration for these rights: constitutional traditions common to the Member States and international treaties for the protection of human rights on which the Member States have collaborated or of which they are signatories⁸ among which the European Convention on Human Rights occupies a special place. Several rights were recognized and protected under the umbrella of the general principles’ doctrine such as freedom of assembly⁹, right to respect for property, right to be heard and right to effective judicial review.¹⁰

It was only with the Treaty of Lisbon that the Charter of Fundamental Rights was introduced as a legally binding document and as part of EU primary law. After Lisbon, fundamental rights as part of general principles coexist with the Charter. In fact, Article 6(3) TEU provides that “Fundamental rights, as guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms and as they result from the constitutional traditions common to the Member States, shall constitute general principles of the Union’s law.” This provision allows the Court of Justice to go beyond the rights contained in the Charter.¹¹ For instance, the right to good administration in Article 41 of the Charter applies only to EU bodies. However, according to the Court this constitutes a general principle of EU law and as such binds Member States and their national administrations when they are implementing EU law.¹²

The Charter of Fundamental Rights is part of EU primary law. It enshrines in EU law rights drawn from national constitutions and the ECHR, and binds EU institutions and Member States under EU law. The Court of Justice has affirmed that EU institutions are obliged to respect Charter rights, and Member States must do so “when they are implementing Union law”. With respect to violations of fundamental rights deriving from acts

⁷ Case 11/70, Internationale Handelsgesellschaft

⁸ See e.g. Case 4/73 Nold, para. 13.

⁹ Case Schmidberger

¹⁰ Joined cases C-402/05 P and C-415/05 P, Kadi.

¹¹ Peers and Barnard, pg. 253.

¹² Ibid, see footnote 48, pg. 253. Authors bring as examples of this Case C-166/13 Mukarubega, and Case C-230/18 PI v Landespolizeidirektion Tirol.

adopted by the European Union, the Charter can be used as a benchmark even if the act at issue was adopted before the entry into force of the Treaty of Lisbon.¹³

4.1 Structure of the Charter

The CFREU consists of 54 articles divided into seven main chapters:

1. Dignity – Right to life, prohibition of torture, and respect for human dignity.
2. Freedoms – Rights related to privacy, education, and asylum.
3. Equality – Prohibition of discrimination and promotion of gender equality.
4. Solidarity – Rights of workers, access to healthcare, and social security.
5. Citizens' Rights – Right to vote, access to justice, and good administration.
6. Justice – Fair trial rights, presumption of innocence, and legal remedies.
7. General provisions governing the interpretation and application of the Charter

According to Article 52(5) of the Charter “The provisions of this Charter which contain principles may be implemented by legislative and executive acts taken by institutions, bodies, offices and agencies of the Union, and by acts of Member States when they are implementing Union law, in the exercise of their respective powers. They shall be judicially cognisable only in the interpretation of such acts and in the ruling on their legality.” This provision suggests a distinction between rights and principles in the Charter. Principles are implemented through legislative or executive acts (at the Union or Member State level only when they implement Union law) and they are relevant when these acts are interpreted or reviewed¹⁴. As a result, despite their binding nature, principles do not “give rise to direct

¹³ See: [Case C-92/09 Volker und Markus Schecke](#), [Case C-236/09 ASBL Test-Achats](#), [Case C-293/12 Digital Rights Ireland](#), and [Case C-362/14 Schrems](#)

¹⁴ See Explanation on Article 52 — Scope and interpretation of rights and principles.

claims for positive action by the Union's institutions or Member States authorities".¹⁵ Thus, in contrast to rights, they cannot be justiciable. An example of a principle in the Charter is Article 37 which reads "A high level of environmental protection and the improvement of the quality of the environment must be integrated into the policies of the Union and ensured in accordance with the principle of sustainable development."

4.2 General provisions of the Charter

Chapter VII of the Charter contains several general provisions or otherwise known as *horizontal provisions* as they apply to all substantive provisions of the Charter. According to Article 6(1) TEU, these general provisions together with the Explanations referred to in the Charter, shall be the basis for the interpretation of the rights, freedoms, principles contained in the Charter. Explanations relating to the Charter of Fundamental Rights is a separate and very useful document which serves as an interpretation and clarification tool for each provision of the Charter.¹⁶ These explanations have been prepared under the authority of the Praesidium of the Convention which drafted the Charter of Fundamental Rights of the European Union and although they do not have legal binding effect, they nevertheless provide a very useful tool for those working with the Charter. Even Article 52(7) of the Charter reflects the importance of the Explanations document by stating that "The explanations drawn up as a way of providing guidance in the interpretation of this Charter shall be given due regard by the courts of the Union and of the Member States."

4.3 Scope of application of the Charter

Article 51 of the Charter determines the scope of application of the Charter and it is one of the most complex and sensitive provisions of the Charter because it touches directly on the division of powers between the EU and Member States. It determines when the Charter is applicable as a standard for review of Union and Member State action. It reflects the premises that both Union and Member State actions should comply with fundamental rights protected in the Charter.

¹⁵ Ibid.

¹⁶ Explanations relating to the Charter of Fundamental Rights (2007/C 303/02), available here [https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007X1214\(01\)](https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32007X1214(01))

Article 51 states that the provisions of the Charter are addressed to the institutions and bodies of the Union and as primary addressees, they are bound by the Charter regardless of whether they act within the scope of EU law. For instance, in a case when the Commission signed a memorandum of understanding in the context of the European Stability Mechanism – which was created outside the EU framework – the Court ruled that the Commission would be bound by the Charter.¹⁷

With regards to Member States, Article 51 provides that the Charter applies only when they are implementing Union law. This encompasses situations when Member State authorities (central authorities, regional or local bodies, and public organisations)¹⁸ are acting in the scope of Union law.¹⁹ The ECJ has repeatedly held that when national measures fall outside the scope of EU law, the Charter does not bind them, but whenever an EU statute or directive comes into play, the Charter's rights must be observed. The European Court of Justice has noted that Article 51 of the Charter 'confirms the Court's case-law' that fundamental rights flow from EU law obligations on Member States.²⁰ More specifically, the expression "implementing Union law" has been interpreted very broadly and encompasses situations such as when Member States are implementing a Union law instrument (e.g. a Directive, or applying a Regulation, a Decision); or when Member States are derogating from EU law or in other words are restricting rights derived from the Treaties²¹; or more generally when Member States act within the scope of EU law.²²

As an illustration of the latter case, in *Fransson* the Court found that the 'ne bis in idem' principle enshrined in Article 50 of the Charter was applicable to the tax penalties and criminal proceedings instituted by

¹⁷ See Barnard and Peers, pg. 261, and the case referred there Joined Cases C-8/15 and 10/15 P *Ledra Advertising*.

¹⁸ See Explanation on Article 51 — Field of application, pg. 32.

¹⁹ Case C-617/10, REQUEST for a preliminary ruling *Åklagaren v Hans Åkerberg Fransson*, ECJ, See at: [²⁰ *Ibid.*](https://curia.europa.eu/juris/document/document.jsf?docid=134202&doclang=en#:~:text=5%C2%A0%C2%A0%C2%A0%C2%A0%C2%A0%C2%A0%C2%A0%C2%A0Arti cle%C2%A051%20defines%20the%20Charter%E2%80%99s%20field,application%20i n%20the%20following%20terms, paras. 16-23.</p></div><div data-bbox=)

²¹ See e.g. Case C-390/12 *Pfleger*.

²² *Fransson*, supra note 17.

Swedish authorities against Mr Fransson although they were not implementing a specific provision or instrument of EU secondary law. However, their actions aimed at enforcing obligations for the collection of VAT which were directly linked to the financial interests of the Union and reflected in Article 325 TFEU. This was enough to link the actions of Member State authorities with EU law and as a result to declare the Charter applicable vis-à-vis Member State action. In another case the Court tried to provide more clarity by ruling that “fundamental EU rights could not be applied in relation to national legislation because the provisions of EU law in the subject area concerned did not impose any obligation on Member States with regard to the situation at issue in the main proceedings”²³. Thus, in the absence of such link through an obligation on Member States, the Charter was not applicable to Member State action.

The second paragraph of Article 51 emphasizes that the Charter “*does not extend the field of application of Union law beyond the powers of the Union*”. This means that the Charter cannot be used to create new EU competences or to regulate purely domestic matters.

After the Lisbon the Charter is binding on all EU institutions, bodies, offices and agencies. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties... It is likewise binding on each Member State “*only when they are implementing European Union law*”,²⁴ which means that in a national court hearing a case under an EU directive must apply the relevant Charter rights, whereas the same court in a purely internal case would not.

4.4 Scope of rights guaranteed under the Charter

Article 52(1) of the Charter reflects the limited nature of fundamental rights in the Charter – of course with a few exceptions of absolute rights. It provides that any limitation on the exercise of rights and freedoms protected in the Charter must:

²³ See Case C-206/13 Siragusa, para. 26.

²⁴ Article 51, the Charter.

- be provided for by law;
- respect the essence of those rights and freedoms;
- respect the principle of proportionality;
- be necessary to genuinely meet objectives of general interest recognised by the Union or the need to protect the rights and freedoms of others.

This framework reflects the approach taken on limitation of rights in the context of the European Convention of Human Rights as interpreted by the European Court of Human Rights.

Article 52(3) provides that insofar Charter rights correspond to rights in the ECHR²⁵, their meaning and scope must be the same as those protected in the Convention. Thus this provision requires courts to interpret it consistently with the European Convention on Human Rights (ECHR). The Convention provides the minimum level of protection; Union law may go beyond this.

4.5 Level of protection of rights in the Charter and its relation to national constitutions

The Charter does not replace national constitutions. Article 53 guarantees that “Nothing in this Charter shall be interpreted as restricting or adversely affecting human rights and fundamental freedoms as recognised, in their respective fields of application, by Union law and international law and by international agreements to which the Union or all the Member States are party, including the European Convention for the Protection of Human Rights and Fundamental Freedoms, and by the Member States' constitutions.” Thus, the Charter tries to preserve the level of protection of fundamental human rights in international treaties and national constitutions.

However, judicial practice of the CJEU has shown that it is possible for tensions to rise in cases of a difference in the level of protection of human

²⁵ Interestingly, the Explanations document contains a list of Articles in the Charter where the meaning and scope are the same as rights in the Convention, see Explanation on Article 52 — Scope and interpretation of rights and principles.

rights afforded at the EU and national level. The case of *Melloni*²⁶ is a good example in this regard. Mr Melloni had been convicted *in absentia* in Italy but he was represented by his lawyers in the criminal proceedings against him. He was convicted and Italian authorities issued a European Arrest Warrant for his surrender. He was arrested in Spain and Spanish authorities were doubting whether they could surrender him to Italy because according to the case law of the Spanish Constitutional Tribunal, such surrender would be in line with the Spanish Constitution only if Mr. Melloni would have the right to a retrial in Italy. The Framework Decision on the European Arrest Warrant did not provide for such requirement in cases similar to that of Mr. Melloni, namely in cases when a person was convicted *in absentia* but was represented by a lawyer in court. Thus, the question was whether Spanish authorities were in a position to apply a higher level of protection of constitutional rights and on that basis deviate from the automatic surrender of the convicted individual? It was clearly a case of a tension between a national constitutional provision and a provision of EU law.

The Court of Justice ruled in favour of primacy of EU law. It interpreted Article 53 of the Charter as a provision that allows national authorities and courts “to apply national standards of protection of fundamental rights, provided that the level of protection provided for by the Charter, as interpreted by the Court, and the primacy, unity and effectiveness of EU law are not thereby compromised.”²⁷ According to the Court, the Framework Decision establishing the European Arrest Warrant had foreseen all situations in which surrender of individuals could be refused and a condition of retrial in the situation of Mr. Melloni was not one of those. Thus, with this ruling the Court of Justice made clear that national courts cannot impose “their own constitutional standards in those cases in which to do so would affect the uniform application of EU law, that is, when EU law leaves no discretion to Member States”²⁸. Conversely, in cases when EU law leaves space for discretion by national authorities, the level of protection of rights in the Charter is the floor and Member States can apply a higher standard of protection of human rights.²⁹

²⁶ Case C-399/11, *Melloni v Ministerio Fiscal*.

²⁷ *Ibid*, para. 60.

²⁸ Barnard and Peers, pg. 269.

²⁹ See, as an example, Joined Cases C609 and 620/17, TSN. In fact, in this case, Member State action going beyond the requirements of e.g. an EU directive, would fall outside of

In sum, the Charter's legal status is that of a binding constitutional rights catalogue for the EU order, but its enforceability is framed by the scope limits of Article 51.³⁰

V. Key CJEU Case Law on the Charter

- *N.S. and M.E. (C-411/10 & C-493/10, 2011)*³¹

This is a joined asylum case, where the Court applied the Charter's protection against inhuman treatment (Article 4). It held that a Member State may not transfer an asylum-seeker to another EU country (e.g. under the Dublin Regulation) if there are substantial grounds to believe the person would face a *real risk* of treatment violating Article 4 there. In effect, the safe-country presumption is rebuttable under the Charter. The Court explained that Article 4 must be given full effect, and a "refugee cannot be returned to a country where there are substantial grounds" for believing they would be tortured or treated inhumanly. This decision imposed a positive obligation on authorities to verify Charter rights (hygiene, detention, etc.) in the receiving State. NS/ME illustrates that the Charter binds Member States in cooperation under EU law (asylum rules) and can provide stronger protections than older EU directives.

- *Åkerberg-Fransson (C-617/10, 2013)*³²

This Grand Chamber ruling clarified the scope of Article 51. Mr. Åkerberg Fransson had been fined under Swedish law for VAT and tax infringements. The Court held that those national sanctions "constitute implementation" of EU law (VAT directives and the EU anti-fraud Treaty provision) and thus the Charter applied. Crucially, the Court found that even though Sweden's law did not explicitly transpose the VAT directive, the penalties were aimed at enforcing EU revenue rules and protecting the

the scope of the Charter and it would not have to be assessed in light of the Charter, see TSN para. 53.

³⁰ Ibid.

³¹ See at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62010CJ0411#:~:text=match%20at%20L442%203,establishing%20the%20criteria%20and%20mechanisms>

³² See at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62010CJ0617#:~:text=It%20follows%20that%20tax%20penalties,1%29%20of%20the%20Charter>

EU budget, which falls within Article 51(1). The Court emphasized that “*tax penalties and criminal proceedings... for which the information concerning VAT...was false, constitute implementation... of European Union law, for the purposes of Article 51(1) of the Charter*”³³.

In practice, Åkerberg-Fransson means that whenever a national measure furthers an EU legal obligation (even partially), Charter rights apply. The Court also noted that the Charter cannot expand EU competences, and confirmed that Member States may still impose combined administrative and criminal penalties (subject to Article 50 Charter on ne bis in idem, but in that case the dual sanctions were held compatible).

- *Digital Rights Ireland (C-293/12 & C-594/12, 2014)*³⁴

This case used the Charter to strike down EU legislation. The Court held that the EU Data Retention Directive (requiring telecoms to store user data) violated the rights to privacy and data protection (Articles 7 and 8 of the Charter). The Directive was invalidated in full. The Court reasoned that blanket retention of all citizens’ communications was not proportionate: it interfered with the “right to respect for private life” (Article 7) and “right to protection of personal data” (Article 8) and could not be justified under the limits of Article 52. The judgment confirms that the Charter can be directly invoked to review and annul EU acts.

- *The Right to be forgotten, Google Spain and Google*³⁵

In this case the Court recognized for the first time the ‘right to be forgotten’ as part of the right to privacy for private persons. The Court interpreted Directive 95/46/EC³⁶ in light of Article 7 of the Charter (respect for private and family life) and Article 8 of the Charter (protection of personal data). More concretely, the Court inferred from such reading of the provisions of the Directive and the rights in the Charter, an obligation for the operator of a search engine “[...] to remove from the list of results displayed following

³³ Fransson, para. 27.

³⁴ See at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62012CJ0293>

³⁵ Google Spain and Google, C-131/12, EU:C:2014:317

³⁶ Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ L 281, p. 31)

a search made on the basis of a person's name links to web pages, published by third parties and containing information relating to that person, also in a case where that name or information is not erased beforehand or simultaneously from those web pages, and even, as the case may be, when its publication in itself on those pages is lawful.”³⁷ Following these developments in CJEU's case law, the legislator included the ‘right to be forgotten’ in Article 17 of the General Data Protection Regulation as the ‘right to erasure’.³⁸

5.2 The application of Charter provisions in horizontal situations

Another relevant and complex issue is the application of Charter provisions in horizontal situations. As mentioned earlier, the Charter binds Member States in their actions whenever they are acting within the scope of EU law, or in simple words whenever they are implementing a Directive, applying a provisions of EU law or taking any action that contributes to their compliance with EU obligations. This means, that natural or legal persons may use Charter provisions as an instrument to challenge before national courts actions of Member States. But the question is whether the Charter binds individuals? In other words, can it be invoked by an individual/legal person against another individual/legal person?

The Court of Justice was confronted with this case in the *AMS* case³⁹ which was brought by an association against a trade union and which concerned Article 27 of the Charter which guarantees the rights of workers to information and to be consulted. In the specific case, the Court ruled that Article 27 was not *specific enough* to be invoked in a dispute between private persons. In a subsequent case, Ms. Egenberger argued before a national court that it had been discriminated against in relation to employment by the Protestant Church in breach of Directive 2000/78 on equal treatment in employment and occupation. Among other arguments,

³⁷ Google Spain, para. 88.

³⁸ For an overview of the ‘right to be forgotten’ under EU law and the ECHR see Joint Factsheet. Right to be forgotten ECtHR and CJEU Case-Law, <https://ks.echr.coe.int/documents/d/echr-ks/right-to-be-forgotten>

³⁹ Case C-176/12 *AMS*. Article 27 of the Charter reads: “Workers or their representatives must, at the appropriate levels, be guaranteed information and consultation in good time in the cases and under the conditions provided for by Union law and national laws and practices.”

she relied on Article 21 of the Charter which enshrines the principle of non-discrimination on grounds of 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. The Court ruled that the prohibition of discrimination in Article 21 of the Charter “[...] is sufficient in itself to confer on individuals a right which they may rely on as such in disputes between them in a field covered by EU law”⁴⁰. The same was ruled by the Court with regards to Article 47 of the Charter.

In *Bauer* the Court found that Article 31(2) of the Charter that guarantees, among other things, the right to paid annual leave, is both mandatory and unconditional in nature, “the unconditional nature not needing to be given concrete expression by the provisions of EU or national law, which are only required to specify the exact duration of annual leave and, where appropriate, certain conditions for the exercise of that right. It follows that that provision is *sufficient in itself to confer on workers a right that they may actually rely on in disputes between them and their employer in a field covered by EU law and therefore falling within the scope of the Charter*”⁴¹. As a conclusion, Charter provisions may be invoked before a national court in disputes between private individuals in a field covered by EU law and if the provision of the Charter is sufficient in itself to confer a right on the individual that brings the case. This is a far-reaching development because allows the Charter to compensate for the lack of application of Directives in horizontal situations⁴².

5.3 The role of the Charter in enforcing judicial independence in the Member States

Another notable example is Associação Sindical dos Juízes Portugueses⁴³, where Portuguese judges invoked Article 19(1) TEU and Article 47 of the Charter to challenge a pay cut. They argued that the salary reduction measures infringe judicial independence enshrined in the second

⁴⁰ Case C-414/16, Egenberger, para. 76.

⁴¹ Joined Cases C-569/16 and C-570/16, Stadt Wuppertal v Maria Elisabeth Bauer & Volker Willmeroth, v Martina Broßonn, para. 85.

⁴² See Case Marshall.

⁴³ C-64/16 (2018)

subparagraph of Article 19(1) and Article 47 of the Charter.⁴⁴ The Court argued that, effective judicial protection is “a general principle of EU law stemming from the constitutional traditions common to the Member States [...] and which is now reaffirmed by Article 47 of the Charter”⁴⁵ Effective judicial protection, the Court continues, is ensured only when courts in Member States are independent. Thus, through the joint reading of Article 19(1) TEU and Article 47 of the Charter, the Court of Justice brought within the purview of the Treaties and of its jurisdiction, the judiciaries in the Member States, and more specifically the requirements of judicial independence. This was a watershed moment in the enforcement of judicial independence and the Court will use the Portuguese Judges case as a solid base in enforcing judicial independence in the context of the Polish rule of law backsliding.

5.4 Other examples

Over time the CJEU has applied the Charter in many contexts. For example, the Court has enforced non-discrimination (Art. 21) in employment cases (e.g. requiring interpretation of EU directives consistently with Charter equality norms). *Achbita* concerned workplace regulations established by an undertaking which prohibited workers from wearing visible political, philosophical or religious signs. The case contained several competing interests: the applicable legal framework was Directive 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation and its provisions had to be interpreted by taking into account also Article 16 of the Charter on freedom to conduct a business. Ultimately, the Court ruled that such prohibition of visible political, philosophical or religious signs “[...] does not, however, amount to indirect discrimination within the meaning of Article 2(2)(b) of the directive if it is objectively justified by a legitimate aim and if the means of achieving that aim are appropriate and necessary.”⁴⁶ Thus in that case, Article 16 of the Charter “could act as a counterweight to an individual’s right not to be discriminated against on grounds of religion.”⁴⁷

⁴⁴ Article 19(1) second subparagraph provides “Member States shall provide remedies sufficient to ensure effective legal protection in the fields covered by Union law.”

⁴⁵ See para. 35 of the case.

⁴⁶ Case C-157/15 Samira Achbita, para. 35.

⁴⁷ Barnard and Peers, pg. 259.

The Court has also enforced the right to an effective remedy and to a fair trial (Art. 47) in criminal and civil proceedings. For instance, in *Asociația Accept v CSM* (C-482/17, 2019) and *Fedesa v Ministerio Fomento* (C-120/17, 2018) the Court held that Article 47 of the Charter may, in appropriate cases, invalidate national laws on judicial appointments or compensation, because EU law (more specifically Article 47(3) of the Charter) demands judicial impartiality and effective remedies

In all these cases, the Charter has been read broadly, but always within the framework that EU law (treaties or secondary law) triggers its application.

VI. Implementation across Member States

With the entry into force of the Lisbon Treaty, Member States are required to consider and respect the Charter when applying EU law. In practice, this means any state authority, including national courts, when applying the Treaties, implementing Directive and applying EU Regulations or Decisions must ensure compatibility with the Charter. In addition, respect for human rights in general constitutes one of the founding values in Article 2 TEU and which candidate countries and current Member States must respect. As a complementary tool of judicial enforcement of fundamental rights in the Charter, the Treaties have provided for a political tool of enforcing the founding values in Article 2, including respect for human rights. This goes beyond the Charter. This enforcement mechanism is provided for in Article 7 TEU and it provides that the Council may suspend certain rights of a Member State (such as e.g. voting rights) if there is a serious and persistent breach by a Member State of the values referred to in Article 2. Despite its powerful tone, this provision has not been effective in encountering the rule of law backsliding in Poland and Hungary, as such suspension of rights has never materialized so far. The procedure has been triggered by the Commission in respect of Poland in December 2017 and by the European Parliament in respect of Hungary in September 2018. In the latter case, the procedure included concerns on violations of rights such as freedom of expression, academic freedom, freedom of religion etc. Following positive developments in Poland, the Commission concluded the procedure in May 2024.

In Member States, litigants and judges invoke and apply the Charter in cases involving EU law. As illustrated earlier, courts have cited Charter equality and due-process provisions in immigration and asylum cases, or Charter privacy rules in data protection cases. Where EU legislation leaves margin to Member States, some governments have adopted national laws expressly ensuring Charter standards. At the same time, the ECJ's case-law has stressed that the Charter does not have independent horizontal effect: a private citizen cannot rely on Charter rights against another private party unless EU law applies (consistent with the general EU principle that directives, and by analogy Charter rights, bind only states and public authorities).⁴⁸ Some national high courts have tested the limits of this, but the prevailing rule is that Charter rights are applicable only where EU law is in play.⁴⁹

Some Member States (like Germany) regard the Charter as setting a floor of rights that complements but does not override their constitutions. The German Constitutional Court in the *Right to be Forgotten II* case, applied the Charter of Fundamental Rights as the standard for review considering that the case at hand was governed by legislation fully harmonised under EU law (Data Protection Directive 95/46/EC and the General Data Protection Regulation).⁵⁰ Others (like France or Italy) routinely reference Charter rights in administrative and judicial decisions. The UK (pre-Brexit) and Poland had declarations (Protocol 30) ensuring the Charter would not add new rights beyond existing law, but the ECJ has consistently said that in any case the Charter “reaffirms” Union rights.

⁴⁸ Article 51(1) of the Charter states:

The provisions of this Charter are addressed to the institutions, bodies, offices and agencies of the Union ... and to the Member States only when they are implementing Union law.

See cases: C-617/10 – Åkerberg Fransson (2013); C-176/12 – Association de médiation sociale (AMS) (2014); Case C-414/16 – Egenberger (2018), etc.

⁴⁹ As an example, the Italian Constitutional Court, Judgment No. 258/2017 (Taricco II) Court of Justice, referred to the Charter, particularly Articles 47 (right to effective judicial protection) and 49 (principle of legality in criminal offences and penalties), as binding sources that must guide interpretation, even when EU law is engaged. Also, in the TC 140/2018, the Spanish Constitutional Court recognized the application of the Charter because the underlying issue, which focused on data protection, is fully governed by EU law, thus triggering Article 51(1).

⁵⁰ German Constitutional Court, 1BvR 276/17.

There are Member States that have also formally embedded the Charter in the domestic systems, such as by training judges or creating “Charter focal points” in ministries responsible for the justice system. The European Commission and FRA note that States have taken various steps to promote Charter awareness – e.g. publishing national guidance or organizing judicial workshops. Nonetheless, the degree of integration varies.

Some examples of this institutional embeddedness are:

- The Ministry of Justice appointed a national Charter “contact point” with a dedicated staff unit, established in December 2021, to promote and coordinate the Charter’s application. Italy’s judicial training college provides regular courses on EU law explicitly covering the “rights set out in the Charter” for judges and prosecutors.⁵¹
- The Government of Ireland designated a Charter focal point within the Department of Children, Equality, Disability, Integration and Youth (DCEDIY), whose EU/International Unit now serves as Ireland’s national EU Charter focal point.⁵²
- The Prime Minister’s Chancellery of Poland (Committee for European Affairs) has established an EU Charter focal point (within the Ministry of Development Funds). Polish law requires every draft bill to include an impact assessment of its compliance with EU law; in practice, this obliges legislators to address the Charter in the impact statements of legislative projects.⁵³

⁵¹ Government policies that promote the use and awareness of the Charter among the legislator, the administration, law enforcement bodies and the judiciary. See at: https://webgate.ec.europa.eu/e-justice/37134/EN/member_states_best_practices_on_the_charter?ITALY&member=1#:~:text=In%20line%20with%20the%20wishes,Justice%20and%20the%20academic%20world

⁵² See at: <https://www.gov.ie/en/department-of-children-disability-and-equality/policy-information/eu-and-international/#:~:text=The%20European%20Union%20and%20International,Focal%20Point%20for%20the%20Charter>

⁵³ See at: <https://bip.brpo.gov.pl/sites/default/files/2024-05/Baseline%20report%20%28EN%29.pdf#:~:text=Developments%20regarding%20the%20Charter%20focal,on%20its%20competences%20and%20activities>

- The Slovenian judicial authorities co-organised a Council of Europe/EU “HELP” training course (April 2024) on the EU Charter (and its interplay with the ECHR) for judges and prosecutors.⁵⁴

The European Commission actively monitors how Member States implement the Charter. For instance, the Commission’s 2024 *Annual Report on the Charter* highlights that it has introduced a “horizontal enabling condition”: EU funding to Member States will be made subject to the requirement that they effectively apply and implement Charter rights. These ‘enabling conditions’ apply to eight funds, namely the European Regional Development Fund, the European Social Fund Plus, the Cohesion Fund, the Just Transition Fund, the European Maritime, Fisheries and Aquaculture Fund, the Asylum, Migration and Integration Fund, the Internal Security Fund and the Border Management and Visa Instrument.⁵⁵ The Commission report also notes national initiatives, such as Charter training programs, new Ombuds services, and collects best practices from Member States. The EU provides e-learning and guidance for judges,⁵⁶ and the Court of Justice continues to issue clarifications; but at the national level the picture remains one of gradual convergence rather than uniformity.

VII. Implications for Candidate Countries (Enlargement)

The Charter, while not directly applicable before accession, shapes the values that candidate countries must meet. The Copenhagen criteria and

⁵⁴ The HELP framework is the Council of Europe’s human-rights training network, supported by the EU’s Justice Programme. See at: <https://www.coe.int/en/web/help/-/eu-echr-interplay-council-of-europe-help-course-launched-for-judges-and-prosecutors-from-slovenia-and-italy#:~:text=On%2011%20April%202024%20sixty,EU%20Charter%20of%20Fundamental%20Rights>

⁵⁵ Based on Regulation (EU) 2021/1060 of the European Parliament and of the Council of 24 June 2021 (CPR). See European Union Agency for Fundamental Rights, EU Funds. Ensuring Compliance with Fundamental Rights, Report, 19 December 2023, available here <file:///Users/piqanid1/Downloads/EU%20funds%20Ensuring%20compliance%20with%20fundamental%20rights.pdf>

⁵⁶ See at: <https://fra.europa.eu/en/eu-charter#:~:text=The%20Charter%20of%20Fundamental%20Rights,why%20it%20is%20necessary%20to>

Article 49 TEU require candidates to respect democracy, the rule of law, human rights and fundamental freedoms, essential values embodied in the Charter as well. The Commission's enlargement policy repeatedly stresses this. The 2024 Enlargement Communication states that EU enlargement "*promote[s] common values, including democracy, the rule of law and respect of fundamental rights*" and places special emphasis on these as the "*fundamentals of the accession process*".⁵⁷ In practice, Chapters 23 (Judiciary and fundamental rights) and 24 (Justice, freedom and security) of the *acquis* cover these standards. Candidates must align their legislation and institutions to EU norms (for example, ensuring judicial independence, protecting minority and media rights, and upholding basic civil liberties).

Each candidate country is assessed against EU rights benchmarks in its annual progress report. These reports note that most candidates have ratified key human-rights treaties (including the European Convention on Human Rights) and adopted many Charter-like guarantees in domestic law. The EU Rule of Law reports have been extended to some Western Balkans candidates, reflecting shared scrutiny. However, the Commission also points out persistent gaps. Even though "*fundamental rights are largely enshrined and protected by law throughout the enlargement region*", there are weaknesses in enforcement (e.g. prison conditions, judicial accountability).⁵⁸ The EU often conditions aspects of financial or political cooperation on progress in these areas.

Politically, the Charter influences accession indirectly. Countries with poor human-rights records find their membership bids stalled. Turkey's stalled negotiations, for instance, are attributed largely to rule-of-law and human-rights issues.⁵⁹ In the Western Balkans, issues like media freedom, corruption, and minority rights (all falling under Charter headings) are central to EU demands. Candidates must not only enact Charter-level protections on paper but also demonstrate "*irreversible and credible*

⁵⁷ See at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52024DC0690#:~:text=stability%20and%20prosperity%20in%20Europe,of%20EU%20membership%20drives%20reforms>

⁵⁸ See at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52024DC0690#:~:text=Fundamental%20rights%20are%20largely%20enshrined,Alignment%20gaps%20remain%2C%20particularly%20on>

⁵⁹ 2024 Communication on EU enlargement policy. Ibid.

progress” in practice.⁶⁰ The promise of eventual Charter enforcement after accession thus serves as a strong incentive to undertake reforms now. In summary, the Charter frames the standard of fundamental rights expected from any aspiring EU member, and its norms are woven into the legal and political accession benchmarks used by the EU.

VIII. Role of Local institutions in the implementation of the Charter

In accordance with the Council of Minister’s Decision No. 606, dated 20.10.2021, amended,⁶¹ the Ministry of Justice is designated as the state authority responsible for the implementation of justice policy, in compliance with the Constitution and legislation in force, the realization and protection of human dignity, human rights, and fundamental freedoms, and contributes to the prevention of legal violations, in accordance with and in function of the requirements of democratic development and the European integration of the Republic of Albania. The European Integration Unit, Directorate of Integration and Negotiation of this ministry is a unit that shares information on the FRA activities among Albanian stakeholders, including academia.⁶² Such information is general and it is more of an awareness nature. However, the Unit does not function as a focal point on the Charter’s implementation in the country.

In addition, the People’s Advocate in Albania, an independent national human rights institution in the country established in 1998 with the Constitution and regulated by law,⁶³ is responsible on the protection and promotion of human rights and freedoms of individuals from unlawful or unfair actions by public authorities in the country. It monitors the implementation of international human rights standards as well. The People’s Advocate has not published a dedicated report solely on the implementation of the EU Charter in Albania, however it has referred to it within its broader human rights monitoring and reporting activities. There are cases when the institution has referenced it in its reports, particularly

⁶⁰ Ibid.

⁶¹ See the Council of Minister’s Decision no. 606, dated 20.10.2021 “On the definition of the state responsibility area of the Ministry of Justice”, amended by Decision of the Council of Ministers No. 28, and dated 17.1.2024.

⁶² Information has been shared via e-mail on 2022 and 2023 on the activities related to the implementation of the Charter’s rights on a general level.

⁶³ Law No. 8454, dated 4 February 1999, titled “On the People’s Advocate”, as amended.

concerning the rights of individuals deprived of liberty or the right to an effective remedy and to a fair trial.⁶⁴

The Albanian State Advocate's Office, established under Law No. 10/018, dated 13.11.2008 "*On the State Advocates*" (as amended),⁶⁵ is a central institution of public administration mandated to provide legal representation before national courts, inter-ministerial legal assistance and coordination, as well as representation before foreign and international courts and arbitration bodies. It also plays a key role in the implementation of European Court of Human Rights (ECtHR) judgments.⁶⁶

Given Albania's path toward European Union integration, the State Advocate's Office is expected to strengthen its capacity to interpret and apply EU law, including the EU Charter of Fundamental Rights. Despite its critical mandate, the institution has not yet benefited from dedicated, structured capacity-building initiatives specifically focused on the Charter. Support from other international actors, such as the Council of Europe⁶⁷ or the German Development Cooperation (GIZ), has been more focused on specific sectors EU acquis and ECtHR-related capacity building.⁶⁸ However, such support has not specifically addressed the EU Charter. An ongoing EU-funded project "*Support the State Advocate to bring judicial*

⁶⁴ See as an example, the "Report of the external expert on the visit made to the Greek state for the period 01.11.2021-04.11.2021 in the Female Prison of Eleona, Thiva and in the Male Prison of Korydallos in Athens.", at: <https://www.avokatipopullit.gov.al/media/manager/website/reports/REPORT-english.pdf>

⁶⁵ <https://qbz.gov.al/eli/ligi/2008/11/13/10018/707d1c04-9b69-4d78-8738-f161f5524138>

⁶⁶ Law No. 10018, dated November 13, 2008 "On the State Advocate's Office" as amended by the Law No. 86/2018, dated November 11, 2019, No. 91/2023, dated November 2, 2023.

⁶⁷ The Council of Europe, through successive phases of its interventions, such as *Phase I (2016–2019)* and *Phase II (2019–2022)* of the project "*Supporting effective domestic remedies and facilitating the execution of ECtHR judgments in Albania*", and the ongoing *Phase III (2023–2026)* project "*Improving the protection of the right to property and facilitating execution of ECHR judgments in Albania (D-REX III)*", has prioritised capacity-building in line with Strasbourg standards. See at: Council of Europe. URL: <https://rm.coe.int/-d-rex-leaflet-albania/16807419d5>, or at: Council of Europe: URL: <https://www.coe.int/en/web/national-implementation/albania-hfii-supporting-enforcement-of-judicial-decisions-and-facilitating-execution-of-ecthr-judgments-in-albania>

⁶⁸ The GIZ Program "*Legal Reform for Economic Development in the Western Balkans*" (2007–2023), has supported Albania's EU rapprochement by focusing on arbitration, the EU acquis on investment, and investor-state dispute settlement (ISDS).

practices in line with EU best practices and human rights standards” is organizing trainings incorporate which elements of the EU acquis, with several sessions have begun to integrate content specifically addressing the EU Charter, contributing to the gradual enhancement of institutional capacity in this area.

Also, disregarding the role in the justices and human rights protection systems, not all these institutions are part of the pre-accession working groups dealing with legal approximation. This is the case of the State Advocate’s Office. Such institutions should be systematically involved in pre-accession working groups dealing with legal approximation. This would help ensure that new laws are not only in line with the EU acquis but also uphold the values enshrined in the EU Charter of Fundamental Rights.

To support the effective alignment of these institutions with the EU legal standards, particularly the EU Charter of Fundamental Rights, a number of key measures are necessary, such as a systematic integration of the EU Charter into the training curricula for State Advocates with dedicated training program specifically focused on the interpretation and application of the EU Charter for these institutions’ employees. Especially the State Advocate’s litigation practice should explicitly include assessment of the EU Charter’s relevance in cases involving human rights and legislative matters to strengthen the consistency and quality of legal arguments presented before domestic and international courts.

To broaden impact, awareness of the Charter should be mainstreamed across other government legal services. Collaboration with line ministries and public institutions would ensure the Charter is considered in legislative drafting, regulatory assessments, and policy advice.

IX. Impact on Human Rights Protection and Key Challenges in Applying the CFREU in Albania

Albania’s constitutional and legal framework is broadly in line with European fundamental rights norms, and dedicated bodies (courts, ombudsman, commissioners, etc.) exist to uphold those rights. Since Albania obtained the status of the official candidate in 2014, it has undertaken a comprehensive justice reform to align with EU standards. An unprecedented reform, launched in 2016, amended the Constitution and

laws to bolster judicial independence and integrity. A centrepiece was the creation of new self-governing judicial institutions (High Judicial Council, High Prosecutorial Council) and a transitional re-evaluation (“vetting”) process for all judges and prosecutors. Parallel to judicial reform, Albania established specialized anti-corruption structures as part of its *acquis* alignment, the Special Prosecution Office and Special Court against Corruption and Organized Crime (collectively SPAK), reflecting Albania’s commitment to uphold the Charter’s principles of justice and good governance. The European Commission has noted “good progress” with such reform.⁶⁹

Albania has progressively aligned its legislation with EU fundamental rights standards and the legal framework is assessed as setting out “...an overall good basis for the protection of fundamental rights,” according to the European Commission, noting steps such as:

- through adding to the Commissioner for Protection from Discrimination competences monitoring of gender equality law, as well as adopting measures like gender-responsive budgeting in government programs, or adopting strategies for women’s rights and against gender-based violence;⁷⁰
- in 2017, Albania adopted a Framework Law on the Protection of National Minorities, recognizing minority communities and their language rights for the first time in line with EU values of pluralism and adopted several bylaws needed, still not all required;
- the Law on Audiovisual Media was aligned with the EU’s Audiovisual Media Services Directive, as part of preparations to join the EU’s Creative Europe programme.⁷¹

⁶⁹ Commission staff working document Albania 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU Enlargement policy, Brussels, 8.11.2023 SWD(2023) 690 final, pg. 5, at:

https://enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf#:~:text=swearing,the%20Constitutional%20Court%20to%206

⁷⁰ Ibid. pg. 6.

⁷¹ Ibid., pg. 32.

- a new law on data protection was adopted in 2024, in response to the Charter's explicit right to personal data protection and to align with the EU's General Data Protection Regulation. The law followed serious personal data breaches in 2021–2022, which highlighted the need for stronger safeguards. Yet, according to the Commission “concerns remain about the handling of personal data by private companies and public administrations as well as about the weakness of government IT systems.”⁷² In addition, the Commission noted the need to strengthen the capacity of the Office of the Information and Data Protection Commissioner (IDP). This institution is consulted on draft legislation however the level of implementation of its recommendations is low.⁷³
- Albania has continued to ratify or comply with major human rights instruments. It is party to most UN and Council of Europe conventions (including the ECHR) and cooperates closely with the European Court of Human Rights on case implementation.⁷⁴ It also received the observer status in the EU's Fundamental Rights Agency (FRA), which allows it to engage with EU best practices on rights monitoring.

Disregarding such progress, frequent observations have been highlighted to adopt strong laws and institutions and that those need to prove effective in practice. Despite notable progress, Albania still confronts major challenges in implementing the Charter's fundamental rights standards.

An independent, impartial and efficient judiciary is assessed as in progress, and the justice system as “moderately prepared” in terms of alignment. Persistent issues affect the justice system in performance.⁷⁵ The heavy case

⁷² 2024 Commission Report on Albania.

⁷³ Ibid, pg. 36.

⁷⁴ Ibid, pg. 30, highlights that: *In June 2023, 389 cases were pending against Albania before the ECHR. The ECHR delivered judgments on ten applications and found breaches of the European Convention on Human Rights in nine out of ten cases (against three in 2022), relating mainly to the right to respect for private and family life, the right to a fair trial, and the right to liberty and security. In the reporting period, there were 101 new applications allocated to a decision body. Currently, there are seven cases under enhanced supervision by the Committee of Ministers*

⁷⁵ Brussels, 30.10.2024 SWD(2024) 690 final COMMISSION STAFF WORKING DOCUMENT Albania 2024 Report, See at:

backlog and human resource gaps disregarding the new magistrates that are being trained and prepared to be appointed in the system, or even concerns of political pressure on the judiciary and merit-based appointments to judicial governance bodies are included in the 2024 country report of the European Commission for Albania.⁷⁶ The country needs to address such shortcomings to fulfil the Charter's requirement of an independent judiciary. While the judiciary has undergone structural change, the country must consolidate its independence and efficiency. Ongoing tasks include reducing the court backlog, fully staffing the benches with qualified judges, resisting any political meddling, and building public trust through consistent integrity. Meeting these challenges is essential for Albania to uphold Charter rights to a fair trial and effective remedy. The EU has made this a cornerstone of accession: negotiations on the Justice and Fundamental Rights chapter (Chapter 23) will only close once Albania demonstrates a track record of independent, well-functioning courts.⁷⁷ Corruption remains one of Albania's most serious challenges in aligning with EU fundamental rights and the rule of law. The European Commission noted progress in 2022–23 but it insists on *increasing* the number of final convictions to firmly establish that no one is above the law.⁷⁸

Freedom of expression and media freedom in Albania have improved in legal terms but face serious challenges in practice. The Albanian Constitution and laws formally guarantee free speech and a free press, echoing CFREU Article 11, however, the European Commission assesses Albania as only “between some and a moderate level of preparation” in this area, with the need to further progress. Media independence and pluralism continue to be hampered by a difficult environment for

https://enlargement.ec.europa.eu/document/download/a8ecc3f9-b2ec-4cb1-8748-9058854dbc68_en?filename=Albania%20Report%202024.pdf

⁷⁶ Ibid, pg.

⁷⁷ See the Accession Conference with Albania: EU opens negotiations on the internal market cluster, at: <https://www.consilium.europa.eu/en/press/press-releases/2025/04/14/accession-conference-with-albania-eu-opens-negotiations-on-the-internal-market-cluster/#:~:text=,External%20relations>

⁷⁸ COMMISSION STAFF WORKING DOCUMENT Albania 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU Enlargement policy, Brussels, 8.11.2023 SWD(2023) 690 final, pg. 5.

journalists and structural issues in the media market. The EU has also recommended that Albania *increase transparency of media ownership and financing*, including by regulating public advertising so it cannot be used to reward friendly media or punish critical ones. Another acute problem is intimidation and safety of journalists. Also, the EU has repeatedly urged Albania to fully decriminalise defamation and treat it as a civil matter.⁷⁹ Therefore, while Albania has aligned certain media laws with the EU, the spirit of free expression is not yet fully upheld, which implicates fundamental rights under the Charter.

Protection of minorities and vulnerable groups is another area where Albania has gaps between policy and practice. Albania's laws on national minorities, anti-discrimination, and social inclusion are largely in line with European standards, reflecting the Charter's emphasis on equality and minority rights, still a full implementation of the 2017 Framework Law on National Minorities is needed as the European Commission notes that "*remaining implementing legislation related to the 2017 law...is still to be adopted*," particularly regulations on self-identification and use of minority languages.⁸⁰

Another aspect regards the Roma and Egyptian communities. Albania has a National Action Plan for Roma and Egyptian Inclusion (2021–2025), but monitoring data and reporting on its implementation are lagging. The EU observes that only limited progress has been achieved in Roma inclusion over the past year. The Charter's principles of equality and non-discrimination demand that Albania intensify efforts to close the gap between Roma communities and the general population. This includes tackling deeply rooted issues like anti-Roma prejudice, informal settlements, and lack of civil registration for some Roma which hinders access to services. Other vulnerable groups face challenges, such as persons with disabilities encounter barriers despite a solid legal framework for their rights.⁸¹

Such challenges identify the need of Albania to devote greater political will and resources to enforce existing strategies, including in the field of

⁷⁹ Ibid, pg. 31.

⁸⁰ Ibid, pg. 29.

⁸¹ Ibid. pg. 40.

judicially capacity building. Concrete steps are critical for Albania to meet the EU Charter's standards.

X. Gaps between Law and Practice (Implementation and Enforcement)

Cutting across all the above areas is a fundamental challenge. Albanian institutions often struggle to translate laws and policies into concrete action and results. The European Commission has repeatedly highlighted that “overall efforts at implementation of the legal and policy frameworks need to intensify” in the realm of fundamental rights.⁸² One manifestation of this gap is the weak follow-up on recommendations by independent oversight bodies. The lack of responsiveness undermines the enforcement of rights.⁸³ Another example is in the area of property rights and judicial remedies. Albania's legacy of unresolved property claims (from past expropriations and restitution issues) has led to the ECHR judgments against it. The Commission noted that first registration of properties and completion of transitional ownership processes “need to advance in full transparency, including by tackling corruption” in cadastre offices. The Charter guarantees the right to property and to an effective remedy and Albania will need to accelerate these processes and ensure court decisions on property are enforced to meet those standards.⁸⁴ Effective enforcement of human rights, especially the right to property and children's rights remains a challenge.⁸⁵

Albania's capacity for data collection and monitoring of human rights outcomes is weak. The EU's Fundamental Rights Agency (FRA) has invited Albania (as an observer) to participate in its work, but Albania still lacks a comprehensive system to gather statistics on human rights issues

⁸² Ibid. pg. 29.

⁸³ The People's Advocate (Ombudsperson) and the Commissioner for Discrimination are key institutions meant to uphold citizens' rights by monitoring authorities. However, their findings are too often ignored. In 2022, the Ombudsperson issued 249 recommendations to government bodies on human rights issues – yet only 17% were fully implemented, and 41% were not implemented at all (rejected or no response).

⁸⁴ Commission staff working document Albania 2023 Report Accompanying the document Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions 2023 Communication on EU Enlargement policy, Brussels, 8.11.2023 SWD(2023) 690 final, Pg. 29.

⁸⁵ See 2024 Commission Report on Albania.

and policy implementation.⁸⁶ Reliable data on discrimination cases, hate crimes, or social inclusion outcomes may be scarce. Improving data collection would help identify where rights are not being respected and guide better enforcement.

The implementation gap means that despite having the laws aligned with EU norms, Albania sometimes falls short in practice – whether due to limited administrative capacity, insufficient funding, or lack of political will to enforce tough standards. Bridging this gap is perhaps the hardest challenge, as it requires sustained effort, resources, and accountability mechanisms. The EU integration process is trying to address this by setting detailed benchmarks and monitoring actual on-the-ground progress (not just legislative checkboxes). Albania's success in applying the CFREU will ultimately be measured by real improvements experienced by citizens rather than the existence of laws alone. The European Commission's 2023 and 2024 assessments made a number of recommendations that point the way ahead, which needs to be addressed in different levels.

XI. Literature Review: The EU Charter of Fundamental Rights in Albania

Existing publications on the EU Charter on Fundamental Rights are not frequent in the country's academic and professional literature. Some authors highlight the innovative contribution of the Charter in raising protection standards, still such publications are not frequent. A publication on EU Law states that the Charter of the EU creates a "new standard of protection" for individuals by consolidating fundamental rights principles and enriching European jurisprudence.⁸⁷ In rare publications, it is observed that the Charter has improved the rights framework in the EU and emphasized the need for Albanian lawyers and citizens to understand the Charter fundamentally, considering that the EU's foundational values (human dignity, democracy, equality, rule of law, etc.) are concretized through the Charter, therefore awareness and application of the Charter should be a priority for a country like Albania seeking membership.⁸⁸

⁸⁶ Ibid. pg. 30.

⁸⁷ Canaj. E, Bana. S. "E Drejta e Bashkimit European", Onufri, Tiranë, 2014.

⁸⁸ See as examples:

- Bianku. L, Mbrojtja e të drejtave themelore të njeriut në Bashkimin European, në Studime Juridike, 2/2005, fq.5-24

However, publications in Albanian specifically focused on the Charter are relatively limited. The Charter is often addressed within broader EU law texts or comparative legal studies. This indicates a clear gap: Albanian legal scholarship still lacks both in-depth critical engagement with the Charter and comprehensive, high-quality analytical work.

XII. Alignment of Albanian Legislation and Judicial Practice with the Charter

Even though the EU Charter does not have direct legal effect in Albania, its principles and values are reflected in new laws and constitutional amendments adopted as part of the integration process. Literature and reports indicate that lawmakers have considered the Charter as a reference point. Institutional reports confirm this trend: the Commissioner for Protection from Discrimination (CPD), in its 2018 annual report, notes that the Charter dedicates a specific title to the principle of equality (Articles 20–21) and that these standards should be reflected in legal practice. Likewise, the EC country reports note that Albania has advanced its legal framework to protect fundamental rights in line with *acquis* requirements.⁸⁹ A significant development was the EU-Albania Stabilisation and Association Council decision (28 November 2019) to grant Albania observer status in the EU Agency for Fundamental Rights (FRA) – a step that, according to the European Commission, will help the country gradually align with EU standards. These measures reflect institutional commitment to internalizing the Charter’s principles in the domestic legal system ahead of formal membership.

In Albanian courts, direct references to the Charter have been rare, even though an important shift is occurring as the Charter is referred to as an interpretive source when analysing issues related to European standards.

-
- Nazaj O., Një ç’mënyrë Karta e të drejtave themelore i përmirëson të drejtat e shtetasve europianë? Perspektiva Shqiptare. See at: <https://uet.edu.al/jus-justicia/wp-content/uploads/2023/01/Ne-cmenyre-Karta-e-te-drejtave-themelore-i-permireson-te-drejtat-e-shtetasve-europiane-Perspektiva-Shqiptare.pdf#:~:text=1%20Bianku,n%C3%AB>

⁸⁹ See the Annual Report 2018, at: <https://www.kmd.al/wp-content/uploads/2021/02/2-raport-vjetor-2018-FINAL.pdf#:~:text=Karta%20e%20t%C3%AB%20Drejtave%20Themelore,lindja%2C%20mosha%20ose%20orientimi%20seksual>

XIII. Constitutional Court and the EU Charter

While the Charter is not directly applicable in Albania as a non-EU member state, the Constitutional Court used it as an interpretive reference to support its reasoning on procedural guarantees in expropriation processes.

In its decision no. 32/2023 concerning the Skavica Hydropower Project, the Constitutional Court reviewed the constitutionality of Law no. 37/2021, which authorized a special contract for the development of the Skavica Hydropower Plant project, a major energy infrastructure initiative of strategic national interest.⁹⁰ The law enabled the project to proceed through a direct negotiation procedure with a selected foreign company, bypassing standard public procurement and competitive bidding processes. The Constitutional Court of Albania referred explicitly to Article 17 of the EU Charter of Fundamental Rights, the right to property, in conjunction with Article 1 of Protocol No. 1 to the European Convention on Human Rights, stating that *'In line with the jurisprudence of the European Court of Human Rights and the case law of the Court of Justice of the European Union, which in Article 17 of the Charter of Fundamental Rights of the European Union recognizes the right to property, the Court considers that any interference with the right to property must be proportionate, necessary, and justified in a democratic society'*.⁹¹ This citation serves to align Albania's constitutional standard for property rights with EU and international human rights standards, reinforcing the requirement that expropriations must respect proportionality and due process.

Also, in its *Decision no. 3, dated 30.01.2024* the Constitutional Court explicitly referred to the Charter. In this case (involving environmental rights), the Constitutional Court found that, *"although the EU Charter is not part of our domestic legislation,"* still Article 37 of the Charter (which mandates a high level of environmental protection) is relevant and should be considered in the context of integration and legal approximation.⁹² The Court emphasized that EU standards on the environment and related public

⁹⁰ See the Decision at: <https://www.gjykatakushtetuese.gov.al/wp-content/uploads/2024/12/vend.0324.pdf>

⁹¹ See paragraph 92 of the judgment.

⁹² See the Decision at: https://www.gjykatakushtetuese.gov.al/wp-content/uploads/2024/12/vend.23_23_.pdf

rights have informed changes in Albanian law. This precedent shows that Albanian judicial practice is evolving: even without formal obligation, the Charter is being used as a constitutional interpretive tool and a benchmark for harmonization with Europe. Nonetheless, there is no extended domestic commentary on the Charter's interpretation and the ECJ caselaw. Lack of such materials impede deepening knowledge on the Charter and proper preparation for the Albania's accession period.

The Constitutional Court's approach demonstrates the Charter's emerging normative influence in national jurisprudence, despite its non-binding status in Albania. Such decisions reflect a judicial tendency to align national constitutional reasoning with EU fundamental rights standards, particularly in the context of Albania's EU integration obligations. The reference to the EU Charter, though not binding, was used as an interpretative benchmark consistent with Albania's EU integration trajectory.

XIV. Capacity Building on the EU Fundamental Rights Charter

The European Commission has actively supported Albania in strengthening its institutional capacity to uphold fundamental rights, with a strong focus on the justice sector and preparation for the EU Charter of Fundamental Rights (CFREU). Capacity building in the country for judges, prosecutors and professionals are provided by several public institutions, such as:

- The School of Magistrates (SoM), Albania which serves as the judicial and prosecutorial training academy.
- The Albanian School on Public Administration
- The Center for Training on Tax and Customs

The SoM is charged with initial and continuous in-service training for all magistrates. The latest published Strategy of the School of Magistrates of the Republic of Albania, 2019-2023, identifies in the Institutional development plan - Activity plan for 2019 to 2023 identifies the development of the concept of the excellence center of EU acquis and

human rights and improvement of the SoM participation in the international research networks, as a key milestone.⁹³

With the EU-funded EURALIUS mission,⁹⁴ since 2005, the School of Magistrates has worked on the update of the training programs and their alignment with the EU *acquis* requirements. The School has introduced a more EU-focused content, including modules on European law and human rights, to better prepare new magistrates to apply EU fundamental rights principles in their future rulings. Also, the School's curriculum and continuous training seminars now cover European human rights standards with a focus on the European Convention on Human Rights. The EU Charter itself has not been the focus of such programs though. The European Commission's judicial training strategy for 2021–2024 explicitly calls for embedding EU law and the Charter in national training activities.⁹⁵ There have been cases of Albanian judges and prosecutors participating in the EU-funded regional training initiatives on the Charter's scope and application of the Academy of European Law (ERA), which allowed them to gain *hands-on* understanding of CFREU rights and their interplay with domestic law,⁹⁶ such cases are not frequent. Albania's School of Magistrates enjoys the observer status in the European Judicial Training Network, and the Commission has encouraged it to proactively tap into EU networks and expertise to strengthen fundamental rights education.⁹⁷

Several EU-funded efforts identified focus on strengthening Albania's capacity for training and institutional understanding of the Charter. Key initiatives include:

⁹³ Pg. 21. See at: <https://rm.coe.int/strategy-som-2019-2023/16809eb828#:~:text=Legislation%20amendments%20within%20the%20justice,candidates%20for%20positions%20in%20State>

⁹⁴ Consolidation of the Justice System in Albania Project.

⁹⁵ See at: <https://ejtn.eu/news/celebrating-25-years-of-fundamental-rights-in-the-eu/#:~:text=To%20strengthen%20its%20application%2C%20the,%E2%80%9D>

⁹⁶ See the information on such courses offered at: <https://www.cej-mjusticia.es/sites/default/files/adjuntos/2021-06/Programa.pdf#:~:text=Who%20should%20attend%3F%20Judges%2C%20prosecutors.apply%20and%20interpret%20the%20Charter>

⁹⁷ EC Country report for Albania, 2023. See pg. 24, at: https://enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf#:~:text=amounted%20to%20EUR%202,be%20more%20proactive%20in%20profiting

- EURALIUS V (2018–2022), a comprehensive EU technical assistance project, is devoted one of its core components to improving judicial training. EURALIUS experts helped *revise the School of Magistrates’ curricula and expand training for new magistrates*, ensuring topics like EU law and fundamental rights are well covered.⁹⁸ The project also supported continuous training for sitting judges and prosecutors on areas aligned with EU obligations and international standards. However, trainings on the Charter have not been dedicated and are identified as needed.
- IPA Twinning Project (2024–2026), a dedicated EU twinning partnership, was launched in cooperation with judicial academies from France, Italy and the Netherlands to boost the efficiency, integrity and professionalism of Albania’s justice system by improving the capacity of the School of Magistrates.⁹⁹ It focuses on overhauling the School’s initial training program, upgrading its teaching methodologies, and training-of-trainers for Albanian faculty. By attracting more qualified candidates and modernizing the curriculum, the School is expected to produce a larger cohort of well-prepared judges and prosecutors versed in EU fundamental rights, thus filling critical vacancies and raising the quality of adjudication. While such activities are undergoing to revise the curricula for the initial training, the need to boost the capacity building on the EU Charter remains. The project does not focus on aspects such as the available materials needed to support capacity building activities. While the project aims at having well-prepared judges and prosecutors versed in EU fundamental rights, the need to focus on the preparation of the manuals, bulletins, or other related publications with the ECJ caselaw on the EU Charter is highly present. Such materials are lacking in the country.

⁹⁸ INSTRUMENT FOR PRE-ACCESSION ASSISTANCE (IPA II) 2014-2020 ALBANIA, Consolidation of the Justice System in Albania. See at: https://enlargement.ec.europa.eu/document/download/fl4735d2-a1b6-4e90-9bf6-657251898f78_en?filename=ipa_2016-038717-4_consolidation_of_the_justice_system_in_albania.pdf#:~:text=3,in%20which%20this%20operates%20in

⁹⁹ The twinning project, “Strengthening the efficiency, integrity and professionalism of the justice system by improving the capacity of the Albanian School of Magistrates.” See at: <https://magjistratura.edu.al/en/te-tjera/projekte/projekti-i-binjakezimit>

- Joint EU–Council of Europe actions, such as the Strengthening the Quality and Efficiency of Justice in Albania (“SEJ”) projects have also supported fundamental rights capacity. A recent phase assisted the School of Magistrates in adapting to the post-2016 legal framework, providing tools from the CEPEJ (European Commission for Efficiency of Justice) to streamline court management and reinforcing training on ethics and human rights.¹⁰⁰ Even though a CEPEJ checklists and best practices are introduced through this project, the School needs to strengthen capacities to apply these mechanisms. Capacity building activities are identified as needed to apply such materials.

The EC country reports on Albania consistently reflect capacity-building efforts and their impact. The Commission’s 2022 and 2023 reports praised steps taken to improve judicial training, such as updating training materials and modestly increasing the intake of new magistrates, but also underscored the need for further reform.¹⁰¹ In particular, the 2023 report urged a “*comprehensive revision*” of the School of Magistrates’ initial training curriculum to meet European standards, including the introduction of a dedicated EU law module to cover the Charter and related acquis,¹⁰² as well to increase the enrolment of the magistrates in such activities.

Addressing the identified gaps through expanding the School of Magistrate’s School faculty and improving training content with emphasis on EU fundamental rights related case-law), would support the country be equipped to apply the Charter’s principles in practice once the country joins the Union. This concerted capacity-building needs to strengthen to feed a “*common judicial culture*” that upholds EU fundamental rights standard, and embed the Charter’s values into the daily functioning of Albania’s justice system.

¹⁰⁰See the list of the information/materials prepared, at: <https://www.coe.int/en/web/cepej/strengthening-the-quality-and-efficiency-of-justice-in-albania-sej-iii-#:~:text=The%20third%20specific%20objective%20is,with%20CEPEJ%20standards%20and%20tools>

¹⁰¹ EC Country report for Albania, 2023. See pg. 22. See at: https://enlargement.ec.europa.eu/system/files/2023-11/SWD_2023_690%20Albania%20report.pdf#:~:text=Quality%20of%20justice%20Some%20positive,quality%20of%20cohorts%20of%20students

¹⁰² Ibid, pg. 24.

In addition to judges, civil servants and legal professionals in administration have also received training. The Albanian School of Public Administration (ASPA) has organized seminars and webinars on the topic "The EU Charter of Fundamental Rights," addressing the Charter's rights and their practical implications for public service.¹⁰³ A 2018 training catalogue for Albanian officials includes a module on the Charter and the principle of "good administration," discussing how the Charter and CJEU jurisprudence promote citizen-oriented administration.¹⁰⁴ However, such efforts are not replicated, indicating that even though there is a good will to enter the Charter's principles in the professional culture of the Albanian administration, concrete efforts are rare.

XV. Education and Awareness on the Charter

Existing literature suggests that knowledge of the EU Charter among both the public and legal professionals has until recently been quite limited. A 2013 study highlighted serious gaps even in the application of the ECHR by judges and prosecutors, while the EU Charter was rarely addressed in practice. This has spurred calls for improvement and emphasizes the need for education on the Charter. Without awareness, the Charter cannot function effectively, as citizens will be unable to claim the rights it guarantees. Awareness among the public and the legal community is essential for the Charter's provisions to have real impact.¹⁰⁵

Albania has strengthened training in EU law and fundamental rights within law faculty curricula. While there is no dedicated course to the Charter, fundamental rights are consistently embedded across EU law and human rights ones. The Charter is primarily addressed at the graduate and postgraduate levels, typically as part of broader course content rather than through focused, standalone instruction. An overview of the relevant study programs and courses that include references to the EU Charter, as well as the nature and extent of its coverage. At the University of Tirana, the

¹⁰³ See at: <https://aspa.gov.al/events/karta-e-te-drejtave-dhe-lirive-themelore-te-be/#:~:text=Webinar,sanksionuara%20n%C3%AB%20Kart%C3%ABn%20e>

¹⁰⁴ See at: <https://www.dap.gov.al/attachments/article/174/TMC%20training%20catalogue%20bililingual.pdf#:~:text=Temat%20kryesore%201,publike%20e%20orientuar%20ndaj%20qytetarit>

¹⁰⁵

Integrated Master's in Law¹⁰⁶ includes core courses such as *European Public Law* and *Human Rights and Fundamental Freedoms*, where the Charter is treated as part of primary EU law and discussed through CJEU case law. In the Master's in Public Law,¹⁰⁷ the Charter is further explored in *EU Institutional Law* and *Legal Remedies in the EU System*, focusing on its post-Lisbon role and enforcement mechanisms.

The University of Shkodra addresses the Charter in its Integrated Master's in Law¹⁰⁸ through courses like *EU Law* and *European Private Law*, focusing on rights such as data protection and market freedoms. In the Master's in Constitutional and Administrative Law,¹⁰⁹ the Charter is examined alongside the ECHR, with emphasis on its application in Albanian law (e.g., Article 51 CFREU).

At the University of Durrës, the Integrated Master's in Law¹¹⁰ incorporates the Charter in *European Law* and *Freedoms and Human Rights*, highlighting its significance post-Lisbon. The Master's in Public International Law¹¹¹ compares the Charter and ECHR and analyzes CJEU case law, particularly regarding Albania's legal reforms.

Overall awareness of the Charter remains limited. Most public discourse on rights still centres around the ECHR, while the EU Charter is often seen as a "technical" EU law concept. Empirical data (surveys, polls) on public knowledge of the Charter is not present. Albanian lawyers and judges still lack a consolidated practice of referencing the Charter in legal arguments.

¹⁰⁶ <https://fdut.edu.al/plani-mesimor-i-programit-te-integruar-te-ciklit-te-dyte-master-i-shkencave-ne-drejttesi/>

¹⁰⁷ <https://fdut.edu.al/master-shkencor-ne-te-drejte-publike/>

¹⁰⁸ https://unishk.edu.al/fileadmin/user_upload/2024/Plane_mesimore_2024-2027/FD/Pl_Web_MID_Drejttesi_24-29.pdf

¹⁰⁹ https://unishk.edu.al/fileadmin/user_upload/2024/Plane_mesimore_2024-2027/FD/Pl_Web_MSH_E_drejtekushtetuese_dhe_administrative_24-26.pdf

¹¹⁰ <https://uamd.edu.al/drejttesi/>

¹¹¹ Ibid.

XVI. CONCLUSIONS

Albania has made substantial legal reforms in line with the EU Charter of Fundamental Rights (CFREU), including constitutional amendments and laws on judicial independence, anti-discrimination, data protection, and minority rights. However, there remains a notable gap between formal legal alignment and effective implementation. While Albania has adopted many reforms, the enforcement of rights remains inconsistent. There are weaknesses in the judicial system, persistent corruption, lack of implementation of oversight bodies' recommendations, and low responsiveness to fundamental rights violations. Gaps between rights on paper and implementation in practice remain, including in the judiciary, media freedom, minority inclusion, and anti-corruption enforcement.

The Charter is a complex instrument in EU law. A proper understanding and implementation by state authorities at the central and local level requires a high level of awareness and familiarity with this instrument. Especially issues such as the scope of application of the Charter to Member States, its application in horizontal situations, the difference between rights and principles, the interpretation of the rights and principles in the Charter and the scope of application in relation to rights in the European Convention on Human Rights, are complex issues that necessitate a detailed engagement with the Charter itself, the case law of the Court of Justice and numerous reports issued by the European Union Agency for Fundamental Rights.

Institutional awareness and use of the Charter are limited, particularly in court practice and legal reasoning, where references are rare and often underdeveloped. Awareness of the CFREU among legal professionals, public officials, and the broader public remains low. Public awareness of the Charter is low, with most discourse focused on the ECHR, and limited educational content dedicated to the Charter in university curricula. The Charter is often overshadowed by the European Convention on Human Rights and is seen as a technical and remote instrument.

More emphasis should be given to legal issues peculiar to the Charter such as its scope of application vis-à-vis Albania. It should be made clear the role the Charter may play in cases brought by individuals before national courts (in order to challenge action by Albanian as an aspiring Member

States) and in cases brought by individuals, Member States institutions or EU institutions before the the EU Court of Justice. Key institutions like the State Advocate's Office is not involved in capacity building activities related to the Charter. Institutions like the latter are not systematically involved in legal approximation processes, missing opportunities to ensure Charter compliance in legislative reform.

Capacity-building efforts on the Charter are insufficient, lacking dedicated training modules, manuals, and case-law commentary in Albanian. Although Albania's School of Magistrates and other institutions have incorporated elements of EU and EU human rights law, dedicated training programs on the CFREU are lacking. No comprehensive training modules or written resources (e.g. in Albanian) exist on the Charter or ECJ case law, limiting judicial and administrative preparedness. The Charter is insufficiently integrated into university curricula, and academic publications in Albanian remain limited. There is no widespread legal scholarship critically analysing the Charter's impact in the Albanian context.

There is a lack of systemic data collection and monitoring on human rights outcomes, limiting accountability and policy refinement. The absence of reliable statistical data on human rights enforcement, discrimination cases, and policy implementation limits Albania's ability to monitor progress and address systemic shortcomings, as expected under EU standards.

XVII. RECOMMENDATIONS

In light of the foregoing conclusions, the following recommendations are put forward:

Legal reform

1. Finalize pending legislation and secondary legislation, especially on sectors highlighted in the EU country reports, such as minority rights, anti-discrimination, and media transparency, to ensure full implementation of existing laws.

Administrative mechanisms

2. Strengthen the institutional follow-up mechanisms for recommendations by the Ombudsman and other human rights bodies to ensure enforcement of fundamental rights.
3. Establish Charter focal points within the Ministry of Justice, State Advocate's Office, and/or other relevant institutions.
4. Include relevant institutions such as the Albanian State Advocate's Office in pre-accession working groups for legal approximation.

Enhance Academic and Public Awareness

5. Fund legal research projects and publications specifically focused on the Charter, including critical analyses of its jurisprudence and comparative studies with ECHR standards.
6. Establish academic incentive initiatives (awards, publication support, etc.) to promote legal scholarship in the Albanian language on the Charter.
7. Translate and disseminate summaries of the CJEU's jurisprudence and commentary on the Charter in Albanian.
8. Prepare and distribute dedicated training manuals in Albanian on the Charter and its interpretation by the CJEU.
9. Develop and disseminate regular bulletins and thematic digests in Albanian on the CFREU and its interpretation by the CJEU.
10. Design and implement awareness-raising campaigns targeting legal professionals, public officials, and civil society actors to enhance understanding of the Charter's role in Albania's EU integration process.

11. Produce accessible civic education materials in Albanian (videos, infographics, and brochures) that explain the rights guaranteed by the Charter.

Integrate the Charter into Judicial Practice

12. Require Charter-based assessments in litigation strategies of the State Advocate's Office.
13. Encourage national courts to reference Charter rights in alignment with EU jurisprudence.
14. Provide translated materials of key CJEU case law into Albanian to ensure broader accessibility on the Charter.
15. Offer legal English training with emphasis on EU legal terminology, particularly for those involved in drafting or interpreting legislation and decisions.

Mainstream the EU Charter in Legal Training

16. Develop and deliver dedicated training modules on the Charter for judges, prosecutors, lawyers, and public officials.
17. Integrate the CFREU as a standalone topic in the annual training calendar of the School of Magistrates (SoM) and include practical case-based sessions on ECJ jurisprudence.
18. Gather feedback from trainees to tailor future modules and adapt to emerging needs.
19. Develop a digital repository of updated EU law materials, including case law, legislation, commentary, and guidance notes

Promote School of Magistrate's and university-level courses and research on the Charter.

20. Encourage legal publications, thesis work, and journal articles on Charter-related topics.

21. Encourage public universities (Tirana, Shkodra, Durrës) to develop dedicated modules or courses on the EU Charter of Fundamental Rights, particularly at the Master's level.
22. Support research projects and student theses focused on the CFREU and promote collaborative academic publications between Albanian and EU law faculties on fundamental rights.
23. Encourage the involvement of Albanian diaspora in the transfer of knowledge on the Charter, its application and the case law of the Court of Justice through joint research projects, open lectures, joint teaching projects.
24. Implement regular evaluations of EU law modules to assess their effectiveness and relevance.
25. Invite guest lecturers or trainers from EU institutions, or partner judiciary academies in EU member states.
26. Support students, or candidate magistrates and trainees in conducting short legal research projects on EU law topics relevant to national practice.

Improve Data Collection and Monitoring

27. Develop a national human rights data system to track Charter-related indicators.
28. Ensure oversight bodies' recommendations are followed up by executive institutions.
29. Strengthen Albania's capacity to collect and publish disaggregated data on human rights implementation, discrimination, hate crimes, and minority inclusion in line with EU monitoring requirements.
30. Establish indicators and baseline assessments to track progress in applying the CFREU and use EU Fundamental Rights Agency (FRA) tools as a reference model
31. Provide access to EU legal databases such as EUR-Lex, Curia, and the European e-Justice Portal, with guidance on effective use.

Expand EU-Funded Support and Tools

32. Ensure EU projects (e.g., IPA, EURALIUS) include Charter-focused components and publications/manuals for practical use.
33. Support Albania's participation in FRA initiatives and judicial networks focusing on the Charter.
34. Ensure the upcoming IPA Twinning project with EU judicial academies focuses not only on curriculum reform, but also on practical resources, mentorship, and ECJ case analysis relevant to CFREU implementation.

Bridge Law and Practice Gaps

35. Address judicial backlog, enhance judicial independence, and combat corruption to meet Charter standards.
36. Focus on vulnerable groups (e.g. Roma, minorities, persons with disabilities) to ensure non-discrimination and inclusion.

Leverage the Charter as a Tool in EU Accession

37. Use the Charter as a framework for evaluating reforms under Chapters 23 and 24.
38. Demonstrate credible progress in implementation, not just legal alignment.

