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Observations on the EU Charter of Fundamental Rights and the future of the European Union

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Excellencies, dear colleagues,

Ladies and gentlemen,

It is good to see so many learned experts of European Union law gathered here today in Estonia's beautiful capital Tallinn.

As you well know, these days we are at a very delicate juncture of European integration. The financial crisis which started with the collapse of the U.S. investment bank, Lehman Brothers, has triggered an important banking and sovereign debt crisis in Europe. It has revealed serious weaknesses in the economic and fiscal policies of several EU Member States. Lately, it has even called into question the architecture of Europe's Economic and Monetary Union, created by the Treaty of Maastricht 20 years ago.

This is the reason why fundamental questions are currently being asked in the media: Can a Member State whose currency is the euro decide one day to leave the monetary union? Or even, will the euro survive?

You are all very knowledgeable EU lawyers. This is why I do not have to remind you that the Treaty of Maastricht itself defines the move to monetary union explicitly as "irrevocable" and "irreversible". Monetary Union is as good as set in stone. It is forever. Legally, it cannot be undone. National currencies were forever abolished with the introduction of the euro. A re-introduction of former national currencies is thus neither foreseen in the Treaties nor is it legally possible under EU law. I believe this should be repeated more often.

However, it is true that the crisis has triggered a very necessary debate about where we stand in Europe and where we are headed.

Europe is at a crossroads at the moment. On the cover of its most recent edition, *The Economist* depicted our situation rather dramatically, with two signposts pointing in opposite directions labelled '"Break-up" and "Superstate".

I personally believe that there are still some options in between. But it is true that the time has come for Europe to make up its mind. Can Member States really afford to tackle financial and economic challenges of a global dimension on their own? Or has the time come for a further quantum leap in European integration?

As you certainly know, I have been advocating such a further quantum leap towards a true Political Union for some months now[1], and I am glad to see that this call for Political Union is increasingly echoed by decision-makers in the euro zone[2].

Perhaps the reason for my belief in a strong Europe with a strong Political Union is that I am a Luxembourger. We in Luxembourg have known for a long time that we are too small to have any meaningful impact on global politics on our own. We small nations have no choice but to team up with other nations. In our globalised world, this is increasingly becoming the reality for bigger nations as well. Even France and

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[1] Reding, V., 2012. 'A vision for Post-Crisis Europe', *The Wall Street Journal,* 8 Feb, p.16.; Reding, V., 2012, 'Mit einer Vision aus der Krise finden', *Frankfurter Allgemeine Zeitung*, 9 March, p.10; Reding, V., 2012, 'Unir l'Europe politique pour 2020', *L'Echo*, 25 May, p.13; Reding, V., 2012, 'Dopo la crisi dell'euro l'Europa può fare un grande passo in avanti', *Milano Finanza*, 9 Feb, p.11; Reding, V., 2012, 'Una visión de Europa después de la crisis', *El Mundo*, 10 Feb, p.19.

[2] Speech by Dr. Wolfgang Schäuble MdB in Aachen: http://www.wolfgang-schaeuble.de/index.php?id=30&textid=1524&page=1; see also the call in *die ZEIT* "Wir sind Europa - Manifest zur Neugründung der EU von unten", 3 May 2012: http://www.zeit.de/2012/19/Europa-Manifest/seite-1, and in the Guardian "*Let's create a bottom-up Europe*", 3 May 2012: http://www.guardian.co.uk/commentisfree/2012/may/03/bottom-up-europe

Germany are not strong enough to weather global challenges such as the current financial crisis or climate change on their own.

If anything good has come of the current crisis, it is this: more and more, national politicians are starting to understand that we can only be strong by being together. And that the right answer to the crisis is more Europe, not less.

This brings me to the main topic of your discussions among FIDE rapporteurs and experts. As your first topic, you chose the EU Charter of Fundamental Rights. I believe this is a very timely choice. I say this not because I am the first ever EU-Commissioner in charge of fundamental rights. I say this against the backdrop of the current crisis.

The crisis is of course first of all about finances, about economic imbalances and about the irresponsible mountains of debt accumulated by national governments. However, at the end of the day, all politics, whether at EU or national level, exists for the people. For our citizens. We will only get out of the crisis if we put a stronger emphasis on our citizens. It is our citizens who make our democracies work. We thus need to regain the trust and confidence of the 500 million citizens who live in the European Union.

And the Charter can play a useful role in this. The Charter states in its preamble, in its first recital, that the Union *"places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice".* These days when we talk about European Political Union, we must not forget this important aspiration. As Professor Besselink says in his General Report for today's congress: the importance granted to fundamental rights *"determines the constitutional nature of the European Union".*

Let me tell you about my first experience of the Charter, during the first two years since it became legally binding. My experience has been somewhat ambivalent.

On the one hand, the Charter has become a powerful tool to firmly integrate fundamental rights into all proposals for new EU legislation.

On the other hand, the Charter has often disappointed the expectations of citizens who have turned to the EU institutions in fundamental rights matters, but could not receive the help they expected.

I need to explain both experiences in more detail.

The Charter as a powerful tool to integrate a fundamental rights dimension into new EU legislation

First, let me address the situation at EU level, where the positive effects of the Charter are clearly visible today. It all started in May 2010, when the members of the new European Commission – the first Commission that took office after the entry into force of the Lisbon Treaty and of the Charter – went to Luxembourg to pledge to respect the EU Treaties, as is common practice. This time, though, something was different. Not only did the 27 members of the College take an oath to respect the EU Treaties, they also pledged to respect the EU Charter of Fundamental Rights.[3] This was of more than only symbolic value. It was a strong political commitment from the whole College to ensure that the Charter is respected and complied with in all EU policies for which the Commission is responsible. This oath made my task as Commissioner in charge of fundamental rights much easier.

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[3] The text of the oath now includes: "*I solemnly undertake to respect the Treaties and the Charter of Fundamental Rights of the European Union in the fulfilment of all my duties*" (For the full text, see IP/10/487)

Because now, I did not have to convince my colleagues to take account of the Charter in their daily work. They had committed to do it themselves, each of them in their respective fields. In my experience, this was the start of a true fundamental rights culture in the Commission.

The next milestone was the adoption, on 19 October 2010, of the **Commission's strategy for the effective application of the Charter by the European Union**. This strategy saw the promise of the oath materialise into concrete Commission practice. Today, Commission proposals are not only systematically vetted for their economic and social effects. They all undergo a detailed fundamental rights assessment. To structure this assessment, and to ensure that Commission officials across different Directorates-General develop a new sensitivity to fundamental rights, the Commission's strategy includes a so-called **"Fundamental Rights Checklist"**. This checklist is based on the case-law of the Court of Justice and helps all experts involved in drafting EU legislation to do so in a manner that is fully compatible with fundamental rights.

Of course, all this was still rather theoretical. It was a political commitment to take fundamental rights more seriously in the EU institutions. But it needed more to ensure that politicians and officials paid more than just lip service to the Charter. As Fundamental Rights Commissioner, I have had to exert political pressure on colleagues on more than one occasion to ensure that the Charter was taken seriously in one of their proposals, and I did so with the strong support of the President and of the Legal Service of the Commission. I am thinking notably of our internal discussions on the Passenger Name Record Agreement with the United States which needed to be modified several times to be brought in line with the Charter.

What helped me most in this work were several important decisions of the Court of Justice of the European Union. One of them was the *Test Achats* ruling[4]. Here, the Court made clear that if the EU legislator wants to implement the fundamental right of gender equality, it must do so in a coherent manner. The Directive in question before the Court provided for equality between men and women in the provision of services, and the Court considered it a violation of this fundamental right that the Council of Ministers had introduced a clause into this Directive that allowed individual Member States to depart from the fundamental right of equality when it comes to insurance premiums. Clemens Ladenburger draws the lesson from this judgement in his report submitted to you today: *"the Court will show less tolerance towards clumsy political compromises expressed in self-contradictory legislative rules".*

In the *Test Achats* case, the Court of Justice made crystal clear that not only do we have a legally binding Charter of Fundamental Rights for the EU but that we also have a constitutional court at EU level that stands ready to apply and enforce the Charter very effectively if need be – a court that will not shy away from declaring EU legislation null and void should it violate the Charter.

In the Commission, these judgements have strengthened the general level of sensitivity towards fundamental rights matters in a significant way, and I hope that the other EU institutions will follow this approach with similar determination. Two recent Commission initiatives illustrate well the new importance given to fundamental rights in the EU's law-making process.

First, **the proposal for a reform of the EU's data protection rules** which the Commission presented on 25 January 2012. Data protection is a very important

[4] Judgement in Case C-236/09

fundamental right in the EU. The reason for this is our historical experience with dictatorships from the right and from the left of the political spectrum. They have led to a common understanding in Europe that privacy is an integral part of human dignity and personal freedom. Control of every movement, every word or every e-mail made for private purposes is not compatible with Europe's fundamental values and our common understanding of a free society. This is why the Charter recognises both the right to private life in Article 7 and the right to the protection of personal data in Article 8. However, this is not all: Article 16 of the Treaty on the Functioning of the European Union also gives the European Union the legislative competence to establish harmonised EU data protection laws that apply to the whole continent and that make the right to data protection a reality. Data protection is thus one of the rare fields where we have full coherence between the fundamental right and the legislative competences of the EU legislator. This makes data protection a particularly powerful fundamental right in the European Union, and the Commission proposals of 25 January are meant to put this right into practice everywhere in our internal market.

However, data protection is also a fundamental right that can easily collide with other fundamental rights. A very important practical constellation is a possible conflict with the freedom of the press. Say, for example, a journalist wants to write an article about a film star and to publish photos about the film star sunbathing on a beach in the South of France. But the film star wants that her privacy be respected. How to solve such a conflict between privacy and freedom of the press? We discussed this extensively in the Commission before the proposals were made. We found that freedom of the press is still regulated in a rather different way across the 27 Member States. Some give it higher importance than others. Some have explicit freedom of press laws, others not. The EU has no competence at all to establish laws on the freedom of the press. Under the Treaties, Member States have an exclusive competence over this. However, the EU legislator cannot ignore the possible conflict between data protection and the freedom of the press. We therefore included a clause in the new Data Protection Regulation that *requires* Member States to provide, in their national laws, for exemptions or derogations from certain provisions of the Regulation for data that are processed *"solely for journalistic purposes"*. We are thus allowing Member States to create rules to reconcile the right to the protection of personal data with the rules governing freedom of expression. This is certainly a difficult balancing act, and one that can only be done in the knowledge of the specific details of each individual case and the specific national circumstances.

A second example where the Commission has had to be fundamental rights-sensitive is the current discussion about **an EU initiative on quotas to ensure gender equality in the board rooms of private companies**. As you all know, gender equality has been an EU objective since the Treaty of Rome in 1957. However, in spite of significant progress, today only 14% of boardroom members in listed companies in the EU are female. This has led an increasing number of Member States – including France, Italy, Belgium, Denmark, Portugal, Austria, the Netherlands, Spain, Greece, Finland and Slovenia – to adopt legislation which introduces different kinds of quota rules for companies. We in the Commission have followed this debate closely and called for action. Our legislative programme foresees an EU initiative for increasing female participation in economic decision-making for the second half of the year. This is also important for Europe's internal market where we have started to see fragmentation as a result of divergent national quota legislation, for example in the field of public procurement where some Member States now have the possibility to exclude bidders who do not comply with the national quota law.

When drafting a legal instrument on a "European quota", we need to be very sensitive to the multiple fundamental rights questions involved. On the one hand, we want to promote gender equality in boardrooms by specific measures in favour of the under-represented gender. On the other hand, we must not discriminate against individual candidates competing for a particular position in a company. It is therefore of key importance that Article 23 of the Charter explicitly says that specific measures in favour of the under-represented gender are legally possible – of course, only if there is under-representation. By definition, quota rules must thus be limited in time, as otherwise they would lead to further inequality. In addition, we need to make sure that EU quota rules do not interfere in a disproportionate way with the freedom to conduct a business, which is a fundamental right guaranteed by Article 16 of the Charter.

The Commission is currently assessing the ways in which we can best balance the fundamental right of gender equality with the freedom to conduct a business. My personal view has always been that an EU quota rule should be focused on the members of the supervisory boards of companies, or to the non-executive board members in one-tier company structures. You will see the result of our assessment in the legal instrument which the Commission will propose in autumn this year, and you can expect it to be accompanied by a very detailed fundamental rights impact assessment.

Excellencies,

Ladies and gentlemen

As you can see, at EU level, the Charter has evolved into a powerful tool. Evidently, not all is perfect yet. Even the best fundamental rights assessment may come to incorrect conclusions. However, it can certainly no longer be said that the EU institutions do not take fundamental rights seriously. The Charter and a very active approach from the Commission to promote its application have made sure that, today, fundamental rights play a key role in the development of new EU policies and proposals.

The "knocking on the wrong door" effect

As already mentioned, the situation is markedly different when it comes to the application of the Charter in the 27 EU Member States. Every day, the Commission receives hundreds of letters from citizens who call on us to enforce fundamental rights vis-à-vis this or that Member State.

For example, there was a woman from Spain, who just divorced her Spanish husband and who found the divorce decision "unfair". She turned to the European Commission to ask for help, "as you are in charge of fundamental rights".

Then there is a French company who lost a competition for a public tender in Italy. "The judge was corrupt", is the French company's claim, and it documents this in hundreds of pages. "The Commission has a duty to help us and to protect our fundamental right to pursue our business."

These are just two examples of the thousands of cases that have been submitted to us since the Charter entered into force. We always try to treat these cases in a citizen-friendly manner, by pointing the citizens in the right direction, usually towards national institutions which could provide help. Nevertheless, the first result of this "knocking on the wrong door" exercise is an understandable sense of frustration amongst the citizens concerned.

What all these cases show is a fundamental and unfortunately rather wide-spread misunderstanding about the *raison d'être* of the Charter and about its field of application.

The raison d'être of the Charter

The *raison d'être* of the Charter goes back to the first two decades of EU law. The story has been told many a time but allow me to refresh your memory. There were no fundamental rights written into the Treaties of Paris and of Rome. Nevertheless, the young Community institutions started to produce decisions, regulations and directives which were meant to be supreme over all national law, including national constitutional law and the fundamental rights included in the national constitutions. Traders who disagreed with the decisions of the supranational institutions in Brussels quickly complained to their national courts and said: here in my home country, my fundamental rights of property and of pursuing my business have constitutional value and cannot be changed, not even by the legislator. However, now there are these institutions in Brussels, and they have the power to simply overrule my fundamental rights.

It was the German and the Italian Constitutional Courts which were the first to pick up this matter. They issued several rulings in which they challenged the principle of supremacy of Community law, which to this day is the most important legal principle guaranteeing the proper functioning of our Union. They said, in short: as long as European law does not protect the fundamental rights of our citizens in a manner equivalent to our national fundamental rights, we will reserve the right to strike down European law as incompatible with our national constitutions.[5]

This challenge was swiftly responded to by the Court of Justice in Luxembourg. To fill the lacunae left in the Treaties, the Court developed fundamental rights as unwritten general principles of Community law, drawing inspiration from the constitutional traditions of the Member States and from the European Convention on Human Rights. In this way, one fundamental right after the other found its way into the legal order of the European Communities. The Charter of Fundamental Rights, drafted in 2000 and updated in 2007, reaffirmed and codified this fundamental rights jurisprudence from the Court in a modern way.

As one can see from this history, the initial *raison d'être* of the fundamental rights developed at EU level was <u>not</u> to apply them to the actions of national authorities. Instead, they were developed to ensure that the newly created EU institutions respect fundamental rights in the same way as national institutions do at national level. **EU fundamental rights were thus created, first of all, to curb the new**

[5] See notably the *Solange I* decision of the German Constitutional Court, BVerfGE 37, 271: „Solange der Integrationsprozess der Gemeinschaft nicht so weit fortgeschritten ist, dass das Gemeinschaftsrecht auch einen von einem Parlament beschlossenen und in Geltung stehenden formulierten Grundrechtskatalog enthält, der dem Grundrechtskatalog des Grundgesetzes adäquat ist, ist nach Einholung der in Art. 234 EG geforderten Entscheidung des EuGH die Vorlage eines Gerichtes der Bundesrepublik Deutschland an das BVerfG im Normenkontrollverfahren zulässig und geboten, wenn das Gericht die für es entscheidungserhebliche Vorschrift des Gemeinschaftsrechts in der vom EuGH gegebenen Auslegung für unanwendbar hält, weil und soweit sie mit einem der Grundrechte des Grundgesetzes kollidiert."

supranational power of the EU institutions. They were meant to complement national fundamental rights, and not to replace them.

The field of application of the Charter

As a result of this, the field of application of the Charter has been deliberately limited. Article 51 paragraph 1 of the Charter says explicitly in the first sentence: *"The provisions of the Charter are addressed to the institutions, bodies, offices and agencies of the Union with due regard to the principle of subsidiarity."* This is logical, in view of the history. The first and primary addressees of the Charter are the Union institutions themselves, as they are not bound by national fundamental rights law.

Article 51 paragraph 1 of the Charter then goes on to say: *"[The Charter applies] to the Member States only when they are implementing Union law."* This wording is very restrictive. The Member States are only bound by the Charter when they act as agents for the Union, e.g. when they execute an EU decision, when they apply an EU Regulation at national level or when they implement an EU Directive. When Member States act on their own initiative, there is no need to bind them to the Charter, as in these cases, they are subject to their national fundamental rights law.

The wording is even more restrictive than the case-law of the Court has traditionally been. The Court also saw national authorities as bound to national law when they acted *"within the scope of Union law"*. I will leave it to your academic discussions today to debate whether the wording of Article 51 of the Charter really has the effect of restricting this case-law. I personally have some trust in the Court of Justice that it would not accept such a restriction easily, even though the drafters of the Charter clearly intended it.

Whether we choose a broader or a narrower interpretation of Article 51 of the Charter, this does not change the principle: the Charter first and foremost applies to the EU institutions and to their actions. It does not replace national constitutions, but merely complements them. Citizens thus have to get used to the fact that they are faced with **a two-layered system of fundamental rights protection**: the national system of fundamental rights that normally protects them and the EU Charter of Fundamental Rights that comes into operation only when an action by an EU institution is involved. For now, I will not address the European Convention on Human Rights, which could be seen as a third layer in this system of protection once the possible remedies in one of the two other systems have been exhausted.

During the past two years, there were two important legal cases where the complexity of this two-layered fundamental rights system could clearly be seen.

First of all, **the case of the removal of Roma – mostly of Romanian and Bulgarian citizenship – from French territory in the summer of 2010**. In this case, the European Commission could step in on the basis of EU law. We could do so because the removal of EU citizens from the territory of one Member State falls within the scope of the EU's 2004 Free Movement Directive. We could therefore insist that in the implementation of this Directive by the French authorities, the fundamental rights of the EU Charter had to be complied with, including Article 19, which prohibits collective expulsions. The Commission could therefore prepare infringement proceedings, as a result of which France changed its national laws to ensure that the procedural and substantive guarantees of the Free Movement Directive were fully incorporated into French law.

What we could not legally address in this case was the forced dissolution of several Roma settlements *within* France, as there is no EU law on this matter. This aspect of the Roma case therefore had to go to the national courts in France. In March 2011, the French *Conseil Constitutionnel* declared the manner in which the French

authorities had acted as a violation of the French constitution. **This case is thus a good illustration of the way in which national fundamental rights law and the EU Charter complement one another.**

A second case was **Hungary**. Over the past years, Hungary has adopted several laws – some of them so-called cardinal laws adopted directly under the constitution – which raised important fundamental rights concerns and also came under analysis in the Council of Europe. In view of Article 51 of the Charter, the Commission had to limit its legal analysis to those matters where there was a clear link with EU law.

The Commission was able to tackle, by means of an infringement procedure started on 17 January 2012, **interferences with the independence of the Hungarian data protection authority**, and this because the "complete independence" of national data protection authorities is a requirement under the 1995 Data Protection Directive and is recognised explicitly in Article 16 TFEU as well as in Article 8 of the Charter.

In a second infringement proceeding, the Commission could also address **the early retirement of around 236 judges and public prosecutors in Hungary** caused by a sudden reduction of the mandatory retirement age for this profession from 70 to 62. The basis for the Commission's action was Directive 2000/78/EC on equal treatment in employment which prohibits discrimination at the workplace on grounds of age. This also covers – according to the case-law of the Court of Justice – a reduction of the retirement for one profession without an objective justification. This case thus helps to implement the general prohibition of discrimination, including on grounds of age, as guaranteed by Article 21 of the Charter.

The third case concerned the **Hungarian media law** where there were serious concerns, notably about the lack of independence of the new Hungarian media authority from the government. Here, the Commission was faced with the legal situation that the EU has only very minor competences with regard to the media. Press and radio are practically outside the scope of the EU Treaties, as is most media content. Only for the provision of cross-border audiovisual media services, certain minimum rules are included in the Audiovisual Media Services Directive. However, these rules do not include a legal requirement that each Member State establish an independent media regulator. The Commission had proposed such a rule in 2005, on my initiative. However, only Latvia, the Netherlands and the UK supported my proposal, while all other Member States rejected it as an undue interference with their national prerogatives. This is why the Commission could only insist on some marginal changes to the Hungarian media law where these were related to audiovisual media services. On the key issue, the independence of the media authority and its role vis-à-vis the written press, the Commission had no power. Certainly, Article 11 of the Charter provides for freedom of expression, freedom of information and freedom of the media. However, under Article 51 of the Charter, this only applies to national decisions where the Member State implements EU law. This was not the case for most of the articles in the Hungarian media law.

One can argue that, even in this case, there was some complementarity between the EU Charter and national fundamental rights - Because, on 19 December 2011, the Hungarian Constitutional Court declared that certain provisions of the Hungarian media law unconstitutionally limited the freedom of the written press. Nevertheless, not all observers of this case were convinced that the matter had been fully resolved and that freedom of the media continues to be fully respected in Hungary. I personally will only trust this complementarity if I am assured that the judiciary in Hungary is and remains fully independent following the recent constitutional changes. The Commission will continue to monitor this very closely.

Towards a Federal Bill of Rights for a European Political Union?

In academic literature, a number of innovative suggestions have been developed to deal with issues such as the Hungarian media law in a more effective way in Brussels. I refer notably to the proposal by *Armin von Bogdandy* and his colleagues to develop a kind of "EU rescue mechanism" for fundamental rights. In the end, all these proposals have the intention of making sure that the Charter can be applied as *ius commune* in all Member States, including to domestic situations. The involvement of an EU citizen as such should suffice to trigger the Charter.

I have some sympathy for such innovative solutions. However, I must say that under the current state of primary Union law, they are hardly compatible with the wording and the spirit of the Treaties. I certainly understand the frustration of some that the European Union of today is not a European federal state. But we cannot – and in my view should not – change this fact by innovative interpretation alone.

I must also say that at the moment, the European Commission is certainly not equipped to become a "Fundamental Rights Super Cop" for all fundamental rights cases in Europe. The Commission's DG Justice has just around 12 officials working on fundamental rights issues – hardly enough to meet the expectations of 500 million citizens when it comes to their fundamental rights.

I would also like to draw a parallel to the situation in the United States of America, which has been a federal state since 1787. It is rather remarkable to see that, initially, the U.S. constitution was conceived of by its founding fathers *without* a Bill of Rights. The "federalists" of the time did not see a need for a federal Bill of Rights as it existed at the time already in each of the founding states. The push for a Bill of Rights came rather from the "anti-federalists", who were very sceptical about the potentially intrusive powers of the new federal government. One can see this division in the intense debate between *James Madison* – initially against a federal Bill of Rights – and *James Monroe*, who campaigned for a Bill or Rights, mainly to limit the federal power of taxation. At the end, the Bill of Rights was annexed to the U.S. Constitution in the form of the Ten Amendments.

The U.S. Bill of Rights was drafted with the main purpose of curbing the powers of the new federal government. Logically, the U.S. Bill of Rights thus initially applied *exclusively* to the federal government. At the time there was no need for it to be applied to the U.S. states, as these all had their own Bill of Rights included in their State constitutions.

It took the United States 100 years – and, let's not forget, a very bloody civil war – until this legal situation was changed with the inclusion of the 14th amendment – the famous "due process clause" – into the U.S. Constitution. It is only since then that the U.S. Bill of Rights applies not only to the federal level, but also, under the "doctrine of incorporation", to the individual States.

To all those who are not satisfied with the current state of Union law as regards fundamental rights, I thus say: Be patient. It has only been two years since the Charter came into force! We should give it time to develop within the specific context of a European Union that has historically grown fundamental rights regimes both at national and now also at EU level.

There are also some promising developments in the EU which may bring about an evolutionary change. I am thinking notably of the judgement of the Austrian Constitutional Court of 14 March of this year. In this judgement, the Austrian Constitutional Court declared that as of now it will consider the fundamental rights of the Charter to be an integral part of the Austrian constitutional order, as is already the case with the European Convention of Human Rights. This is a welcome move from the Austrian Constitutional Court. For citizens in Austria, this jurisprudence

means that, in EU related cases, they can invoke the Charter directly within the Austrian constitutional order. At the same time, the Austrian Constitutional Court has made clear that it will submit all relevant questions on the Charter to the Court of Justice in Luxembourg under the preliminary reference procedure. I would hope that this **"Austrian model of Charter incorporation"** might also be taken up by other constitutional courts - because it allows for an effective, decentralised application of the Charter within the national constitutional orders. Europe and its citizens can only benefit from such an approach.

Excellencies,

Ladies and gentlemen,

At an informal dinner in Brussels last week, the Heads of State and Government of the 27 EU Member States analysed the current situation of Europe in some detail. They also agreed that to get out of the crisis, Europe now needs to demonstrate its resolve in the irreversibility and the solidity of the Euro. This is why a small working group composed of the President of the European Council, the President of the European Commission, the President of the Euro Group and the President of the European Central Bank has been given a mandate to prepare, by June, a roadmap and a timetable for decisions which should allow us to move our Economic and Monetary Union to a new stage. One day this could mean a single European financial supervisor; a European bank resolution scheme; and possibly even the joint issuance of sovereign debt in a Fiscal Union.

As the European Commission outlined this Wednesday, in the long run this work also has to encompass "a political process to strengthen the democratic legitimacy and accountability of further integration moves." I believe it is in this long-term context, that the further evolution of the Charter of Fundamental Rights could be addressed.

Is the time already ripe for Europe to move to a federal solution, following the model of the 14th Amendment to the U.S. Constitution?

Or should we rather rely on a decentralised approach, applying the Charter in a similar way to the Austrian Constitutional Court?

I would call on all of you to make, on the basis of your further discussions today, your own contribution to the debate on Europe's Political Union and on the future of the EU Charter of Fundamental Rights.

Because I am convinced: the current crisis will in the end lead to a stronger European Union than we have today. A stronger Economic and Monetary Union. A full Political Union. And a Union that is at the service of its citizens, and puts the fundamental rights of citizens even more at the heart of all its activities.

I thank all of you for your individual contributions to this important debate. And now I wish you good, fruitful and inspiring discussions.