

Speech by the European Ombudsman, Jacob Söderman to the European Convention, 25 June 2002

Mr Chairman!

The Presidents of the European Parliament, Council and Commission proclaimed the Charter of Fundamental Rights at the Nice summit in December 2000. This was an important commitment to European citizens on behalf of the institutions and bodies of the Union, especially the three institutions themselves.

Since then, the Ombudsman has tried to encourage the institutions and bodies to respect the rights contained in the Charter.

We carried out three own-initiative inquiries on specific Charter rights:

The inquiries into officials' freedom of expression and right to parental leave led the Commission to propose amendments to the Staff Regulations.

The inquiry into age discrimination in recruitment led the Presidents of the European Parliament and Commission to agree to end the use of age limits in recruitment with immediate effect.

Following a complaint, the Ombudsman made a special report to the European Parliament about indirect sex discrimination against women in the secondment of national officials. In response, the Commission abolished the rule concerned.

As requested by the European Parliament, the Ombudsman systematically applies the European Code of Good Administrative Behaviour, so as to give effect to the right to good administration in the Charter.

The Ombudsman also suggested that the Commission adopt a code to handle Article 226 complaints. In response, the Commission recently published a Communication which represents real progress towards fair administrative procedure for complainants.

Mr Chairman

There can be no doubt that the Charter should be legally binding on the Union's institutions and bodies, including when they legislate.

This means the Charter would also be binding whenever Community law is being applied.

It is also important that the citizen has remedies available if the Charter is not followed. Both judicial and non-judicial remedies could be used and the network of ombudsmen and similar bodies could surely make an important contribution.

Giving legal status to the Charter also means that the constitutional role of the Court of Justice should be further developed to include a focus on human rights.

The European Ombudsman would be ready to accept responsibility for referring fundamental rights cases to the Court of Justice, if no solution could be found in a normal ombudsman investigation. This could limit the number of cases in which individuals might themselves seek to bring fundamental rights cases before the Community courts.