

FUNDAMENTAL RIGHTS REPORT — 2024

The year 2023 brought both progress and setbacks in terms of fundamental rights protection. FRA's Fundamental Rights Report 2024 reviews developments in the field, identifying both achievements and remaining areas of concern. This publication presents FRA's opinions on the main developments in the thematic areas covered and a synopsis of the evidence supporting these opinions. In so doing, it provides a compact but informative overview of the main fundamental rights challenges confronting the EU and its Member States.

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INTRODUCTION

This is a compilation of FRA opinions and accompanies the *Fundamental Rights Report 2024*. It presents a synopsis of the key findings in the thematic areas covered in the report, supporting the FRA opinions. These are evidence-based, timely and practical actions for consideration by EU bodies and national governments.

This year's annual *Fundamental Rights Report 2024* explores the themes of the cost-of-living crisis, democracy and fundamental freedoms and the concerning fundamental rights situation at the EU's external borders. It presents a timely review of the most pressing threats to fundamental rights in Europe. It also explores the application and implementation of the EU Charter of Fundamental Rights.

While the report focuses only on these key issues, 2023 was a year of multiple threats to fundamental rights and freedoms. Threats to democratic values and civic space as well as online hatred and disinformation pose serious challenges to fundamental rights. So does the rise in racism and related intolerance. At the same time, Europe faces rising poverty amid a cost-of-living crisis and continues to grapple with the polarising issue of migration. Necessary action on climate change risks reinforcing existing forms of social and economic marginalisation. Against this backdrop, this report presents a concise overview of the key thematic issues and suggests how to address the challenges to fundamental rights.

The FRA opinions contained in this report are intended to inform policymakers and lawmakers by outlining actions for the EU and Member States. Taken together with the full report, FRA sets out ways forward for a more inclusive Europe based on the protection and promotion of fundamental rights.

1

IMPACT OF THE COST-OF-LIVING CRISIS AND RISING POVERTY IN THE EU

The cost-of-living crisis has affected all Member States. It has largely been driven by the economic consequences of the COVID-19 pandemic and rising energy prices due to the Russian war of aggression against Ukraine.

In 2022, 95.3 million people in the EU were at risk of poverty or social exclusion. This is equivalent to 21.6 % of the EU population. After an increase in 2020 and 2021, the figure remained stable in 2022 compared with 2019. But poverty and social exclusion have increased among children, affecting 24.7 %. This share represented about 20 million children in 2022, almost 1 million more than in 2019.

This crisis has had an impact on fundamental rights guaranteed by the Charter of Fundamental Rights of the European Union and by the European Social Charter of the Council of Europe. In 2022 and 2023, the EU and Member States adopted measures to address rising prices and housing issues, and to tackle energy poverty. These have mitigated the negative impacts on poverty and social exclusion on average in the EU population. But such measures were often temporary and did not always reach the most vulnerable. Therefore the long-lasting impacts of inflation remain to be closely monitored.



Several studies have underscored the negative impacts on fundamental rights resulting from the cost-of-living crisis – caused by the COVID-19 pandemic and the Russian war of aggression against Ukraine. Inflation, and rising prices in particular, threaten fundamental rights and principles guaranteed by EU law. These include the rights to human dignity and gender equality, to non-discrimination, to respect for private and family life, to housing assistance and to social security and assistance to access services of general economic interest, and the rights of persons belonging to groups at higher risk of poverty.

The cost-of-living crisis continues to affect different groups in distinct ways and to varying degrees. The risks and impacts are not borne equally across societies. Those who are already vulnerable or discriminated against are at greater risk of poverty.

Children, women, young people, racial and ethnic minorities, older persons, lesbian, gay, bisexual, transgender, intersex and queer (LGBTIQ) people, Roma and people with disabilities are at the highest risk of experiencing poverty and threats to their fundamental rights. For example, children's risk of poverty or social exclusion has increased significantly, with about 1 million more at risk since 2019.

FRA OPINION 1.1

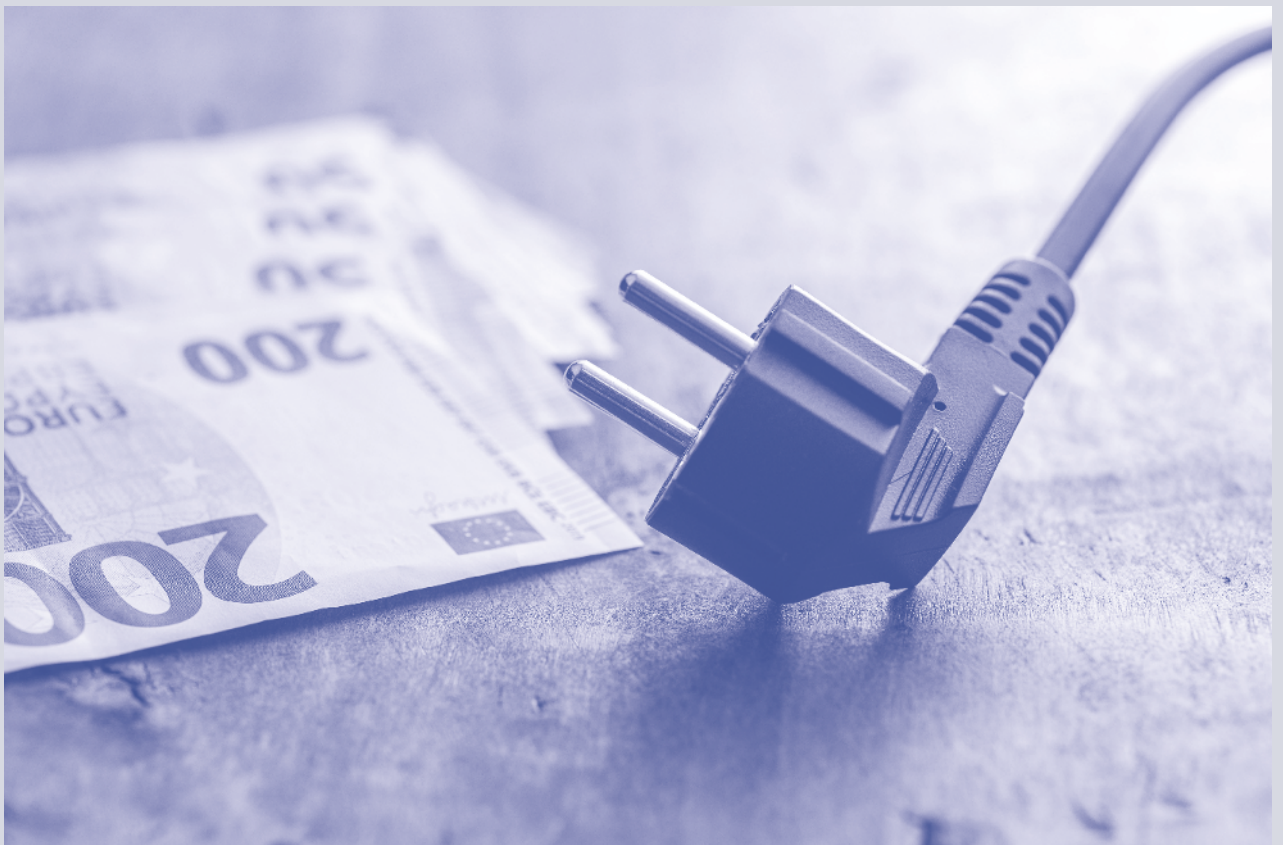
When planning and implementing policy and legal responses to the cost-of-living crisis, the EU and Member States should take into account that the impact of this crisis is not borne equally. They should also ensure that the responses contribute to fighting poverty and social exclusion.

To do so effectively, such policy and legal measures should be evidence-based using *ex ante* fundamental rights assessments. These should be drawn from robust and reliable data, sufficiently disaggregated to determine their potential impact on the fundamental rights of potentially vulnerable persons such as women, children and young people, ethnic minorities, older people, LGBTIQ people, Roma and people with disabilities.

The EU and its Member States have implemented various legislative and policy measures to address rising prices and the cost-of-living crisis. These include taxation measures, price caps and direct benefits to ensure the right to social security, the right to social assistance, and access to essential goods and services such as energy, housing and food.

However, thorough assessments did not identify any actual impacts of the cost-of-living crisis on the fundamental rights protected by the Charter. In addition, comparable country data on actual needs and measures, and their impact on the rights of vulnerable groups, are limited. Disaggregation of relevant data is often limited to age, sex and income status, with no available disaggregated data for other groups in vulnerable situations, such as people with different ethnic backgrounds, LGBTIQ people, Roma and people with disabilities.

The effectiveness and cost-effectiveness of measures adopted for people in vulnerable situations, including the impact on fundamental rights' enjoyment, remains largely unknown. Initial research indicates that there are significant gaps in implementation. The measures that have been implemented are temporary and untargeted and have not reached vulnerable households. All of this has resulted in leaving some of the most vulnerable groups behind.



The cost-of-living crisis has caused an increase in energy poverty, disproportionately affecting those already at risk of poverty and social exclusion. Disadvantaged groups – such as Roma, immigrants and descendants of immigrants, ethnic minorities, low-income and homeless people – and in particular women in those groups are more likely to encounter difficulties in relation to energy and transport than the general population.

The Council of the European Union calls on Member States to strengthen their responses to high inflation and spiking energy costs. The European Commission has established a set of good practices for structural improvements that Member States can make to address the root causes of energy poverty.

The EU is committed to addressing energy poverty and ensuring a fair and just transition in Europe, as part of the European Green Deal. Addressing energy poverty is prioritised in the revised energy efficiency directive (Directive (EU) 2023/1791), which sets out the energy policy requirements to achieve the EU climate targets on tackling and monitoring energy poverty. The European Commission assessment of the national energy and climate plans to implement the European Green Deal shows that Member States have adopted several measures in relation to energy poverty. But these measures lack clear objectives, vulnerability assessment methods and a strong consumer empowerment framework.



FRA OPINION 1.2

The European Commission should consider including in the next programming period of the European Structural and Investment Funds the appropriate horizontal or thematic enabling conditions to assist in tackling energy poverty.

EU Member States should ensure that policy and legal measures relating to climate targets and energy poverty take into account the fundamental right to social and housing assistance, so as to ensure a decent existence for all those who lack sufficient resources. This would be in accordance with the rules laid down by Community law and national laws and with practices to combat social exclusion and poverty.

When developing revised national climate and energy plans, Member States are invited to take into account the relevant Commission recommendations. This is to respect upholding the central, transformative promise of the 2030 Agenda for Sustainable Development and its Sustainable Development Goals (SDGs) to 'leave no one behind'.

2

ADDRESSING THREATS TO DEMOCRACY AND CIVIC SPACE: PROMOTING PARTICIPATION AND PROTECTING FREEDOMS OF ASSOCIATION, PEACEFUL ASSEMBLY AND EXPRESSION

Meaningful participation of individuals and civil society in public affairs is a crucial tool to ensure full implementation of fundamental rights. It ensures that everyone's rights are considered when drafting laws and policies. Evidence shows, however, that there is often too little time or opportunity for meaningful comment on or engagement with draft legislation. This is particularly the case when accelerated procedures are used or when bills cover multiple issues. The European Commission has issued a new recommendation to address shortcomings in national participation and consultation procedures.

Both attacks by third parties and excessive state interference – in particular against the rights to freedom of association, peaceful assembly and expression – continue to threaten the space for civil society. This includes strategic lawsuits targeting media and civil society organisations (CSOs), as well as restrictions proposed for or imposed on the freedom of peaceful assembly. The European Commission has acted by proposing EU legislation on lawsuits aimed at intimidating and draining the resources of CSOs and media. Moreover, the Commission has proposed legislation both on media freedom and to facilitate associations' cross-border operations.

Meaningful participation of human rights actors and of the general population in public affairs at the national level requires appropriate channels and procedures to ensure that human rights considerations efficiently reach law- and policymakers. Facilitating participation in public affairs is a human rights requirement as Article 25 of the International Covenant on Civil and Political Rights shows. Such participation is relevant not only where Member States legislate autonomously but also where their law - and policymaking falls within the scope of EU law – for instance when transposing an EU directive.



When participation is carried out properly, it allows independent human rights bodies and CSOs with relevant fundamental rights expertise to substantially contribute to and comment on lawmaking. In this way, it also provides a crucial tool to ensure that Member States are not violating the Charter in the implementation of EU law. But the evidence collected suggests that Member States do not always have adequate rules for public participation in place. Even if they do, they are sometimes applied in a non-transparent manner, limited in scope or shortened excessively to speed up law- or policymaking processes.

This carries significant risks, as reduced scrutiny of laws or policies can result in a lack of proper consideration of fundamental rights impacts. It may ultimately compromise the quality of national law- and policymaking. When CSOs with expertise in fundamental rights are not sufficiently consulted, there is a higher chance that law- and policymaking will not adequately mainstream fundamental rights. It also means they will not effectively apply the rights and principles laid down in Article 51 of the Charter.

Under the Charter and international human rights law, EU Member States are required to take positive measures to ensure that there is a vibrant civic space, namely by fully implementing their obligations under the freedoms of association, peaceful assembly and expression. They should also ensure that restrictions to these rights meet the principles of legality, necessity and proportionality. CSOs, media professionals and media organisations have reported serious verbal and physical threats and other repressive measures. These include strategic lawsuits against public participation and covert surveillance measures.

Significant restrictions – including criminal law sanctions, surveillance measures, the use of force to disperse assemblies and home searches – have been placed on the freedom of peaceful assembly. Such measures have been applied in a range of ways, including during climate protests. The Council of Europe monitors attacks against journalists. There is also a mechanism that covers the situation of human rights defenders outside the EU. However, there is currently no EU-level monitoring of civic space (including but not limited to journalists) inside the EU that would systematically provide the evidence base for policymaking.



FRA OPINION 2.1

To ensure sufficient fundamental rights scrutiny of legislation and policies within the scope of EU law, Member States should review their legislation to ensure that rules on public participation are clear and sufficiently broad. They should allow CSOs with expertise in fundamental rights and human rights defenders to submit their views.

National law- and policymakers should apply these rules in a consistent and transparent manner. They should widely publicise and promote participation in public consultations, integrating a gender perspective and paying particular attention to reaching out to and including people in vulnerable situations, such as LGBTIQ people, people with disabilities and members of ethnic, racial and religious minorities, as well as CSOs with fundamental rights expertise.

EU Member States should leave sufficient time for civil society to respond to legislative and policy initiatives in a meaningful manner. They should ensure that those who participated in consultations are informed of the outcome.



FRA OPINION 2.2

Following calls by civil society, the European Commission could consider establishing an observatory that monitors the situation of human rights defenders in the EU. Such an observatory should be established in consultation with civil society and relevant existing mechanisms. It should, as a minimum, monitor restrictions on civic space, and attacks on and threats against civil society actors. It should also facilitate exchanges of good practice.

EU Member States should encourage the reporting of actions against CSOs and human rights defenders. Furthermore, they should ensure that such actions are properly recorded, investigated and prosecuted.

3

MIGRATION: FUNDAMENTAL RIGHTS CONCERNS AT EU BORDERS



Many of those seeking international protection or work opportunities do not possess valid travel documents. Some try to reach Europe by sea on unseaworthy boats. In 2023, over 4 000 people died or went missing at sea, the highest number in the last 5 years. To curb irregular migration, states build more fences and borders get increasingly militarised.

The EU is rolling out new information systems to facilitate border checks. Tensions between national legislation regulating access to asylum and EU law continue, as do allegations of ill treatment and other rights violations at borders. CSOs helping migrants and refugees face continuing challenges.

The EU has agreed on a pact on migration and asylum, through which asylum and return procedures should become faster and take place near the border. Some facilities at borders struggle to offer dignified reception conditions to new arrivals. The pact will introduce a duty for states to monitor fundamental rights compliance. As the EU is now a party to the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention), EU institutions and agencies will need to take action to prevent and combat violence against women and domestic violence, in the context of migration, including at borders.

This chapter deals with fundamental rights at the borders. It focuses on the EU's external land and sea borders. It looks at policies prior to arrival, border controls themselves and the initial processing of people who enter by avoiding border controls.

FRA OPINION 3.1

EU Member States should review and adjust their search-and-rescue protocols based on best practices to save lives at sea.

When promoting compliance of EU funding with fundamental rights, the European Commission should consider ways to link funding for maritime border management to the adoption of and adherence to operational protocols that ensure timely assistance to people in imminent danger at sea.

Member States and Frontex should collectively ensure that enough appropriately equipped naval assets are deployed in high-sea areas, where risk analysis suggests shipwrecks are more likely to occur.

Over 4 000 people died or went missing in their attempts to reach Europe by sea in 2023. This is the highest number in the last 5 years. The right to life (Article 2 of the Charter and the European Convention on Human Rights (ECHR)) carries an explicit obligation for states that are legally bound to honour it on land and at sea. EU Member States have operational protocols on search and rescue, which require constant review to reflect best practices and lessons learned. The number of vessels deployed to rescue people in distress at sea does not match the needs.

Reducing the death toll at sea is complex. It requires a comprehensive approach including all relevant states, EU bodies, international organisations and other involved parties. There are, however, important steps that the EU and its Member States can take.

Member States are taking enhanced action to control their borders and stem irregular migration. Some measures have led to arbitrariness, legal uncertainty, restrictions on the work of civil society and ineffective judicial protection against widespread rights violations at borders. Few victims access justice through effective remedies. Case-law of the European Court of Human Rights (ECtHR) sets the conditions required for a remedy to be effective in law and in practice. In its contribution to the European Commission's rule of law report, FRA indicates that the lack of access to justice may pose a risk to the respect of the rule of law as a core EU value of Article 2 of the Treaty on European Union.

In future, under the pact on migration and asylum, Member States will have a duty to establish independent mechanisms to monitor fundamental rights during screening at borders and are free to extend the scope of such mechanisms to other aspects. In 2022, FRA issued guidance on how to set up such mechanisms.



FRA OPINION 3.2

Member States should make enhanced efforts to protect the fundamental rights of migrant, refugee and asylum-seeking persons at borders. They should do so by promptly and effectively investigating all allegations of fundamental rights violations at borders and in all shipwreck incidents. Furthermore, Member States should respect the procedural requirements established by the ECtHR.

Member States should set up or strengthen national independent mechanisms to monitor fundamental rights compliance at their external borders, building on FRA's expertise and guidance.

FRA OPINION 3.3

Member States should ensure that facilities used to host new arrivals at external borders offer dignified and safe conditions, and do not lead to arbitrary detention. Such facilities should be part of an overall sound migration management system with sufficient capacity to move asylum applicants to regular facilities, when necessary. The system should also have effective, humane procedures for dignified returns and offer workable integration opportunities for international protection beneficiaries.

The European Commission should consider requesting an independent fundamental rights impact assessment, when necessary, to verify the fundamental rights compliance of EU funding under the applicable EU instruments.





FRA OPINION 3.4

When assessing the compliance of EU funding with EU law, Member States and the European Commission should also consider the standards set out in the Council of Europe Istanbul Convention.

In 2023, the Istanbul Convention became binding on the EU itself and not only on those Member States that have ratified it. EU law already contains provisions for protecting women at borders. The new obligations will further expand these. Under the common provision regulation (Regulation (EU) 2021/1060), when Member States make use of EU funding to support their border management, asylum and return policies, they need to put in place arrangements to ensure that EU-funded programmes comply with the Charter and with the United Nations Convention on the Rights of Persons with Disabilities. In its 2023, report entitled *EU Funds – Ensuring compliance with fundamental rights*, FRA suggests that, in future, the Istanbul Convention should also be considered.

4

IMPLEMENTATION AND USE OF THE CHARTER AT NATIONAL LEVEL

Ahead of the 2025 midterm review on the implementation of the Charter strategy to strengthen the application of the Charter of Fundamental Rights in the EU and the 25th anniversary of the Charter's proclamation, efforts to implement the 2020 Charter strategy at the national level still lacked a structured process and concrete targets, milestones and timelines.

The Charter continued to strengthen the fundamental rights toolbox in courtrooms, as evidenced by national and European case-law. But persisting challenges in the accessibility of the justice system hindered the effective exercise of the rights enshrined in the Charter, especially for people in vulnerable situations.

National legislators' and authorities' application of the Charter lagged behind that of the judiciary. Of particular note was regional and local authorities' lack of use of the Charter. The Member States have been slowly adopting policy and legal frameworks to implement the Charter-related 'horizontal enabling condition' for the use of EU funds. However, issues remained concerning complaints mechanisms and the participation and required capacity of fundamental rights actors. With national human rights institutions being some of the key advisors of national governments on human rights issues, it remains important for them to develop Charter expertise.

Thanks to dedicated EU funding, especially through the citizens, equality, rights and values (CERV) programme, efforts have increased to widen the knowledge and expertise on the Charter. However, differences exist across Member States, national authorities and professions in the extent to which the Charter applies.

Soon it will be 25 years since the Charter was proclaimed. The Charter continues to be frequently used at the EU level, especially in the case-law of the Court of Justice of the European Union but also in EU law- and policymaking (e.g. see the European Commission's tool No 29 and the Council's guidelines). In 2025, the European Commission will report on the midterm implementation of its 2020 strategy to strengthen the application of the Charter of Fundamental Rights in the EU.

At the national level, efforts to implement the Charter strategy still lack a structured procedure and concrete targets, milestones and timelines. Moreover, the Charter is not yet particularly visible in national law- or policymaking that falls within the scope of EU law. National rules on impact assessments still do not explicitly refer to the Charter.

At the same time, 25 Member States appointed a Charter focal point, as envisaged in the Charter strategy and related conclusions of the Council of the European Union. Establishing Charter focal points is an important first step, as these focal points may steer or assist the process of implementing the strategy nationally. However, most of the Charter focal points still need to find their role in the national context to best contribute to an enhanced application of the Charter at the national and local levels.



FRA OPINION 4.1

The European Parliament, the Council of the European Union and the European Commission should further develop and update tools guaranteeing that EU law- and policymaking are in full compliance with the Charter. They should also strengthen their efforts to promote the Charter throughout the EU.

EU Member States are invited to establish a structured process based on concrete targets, milestones and timelines when implementing the conclusions of the Council of the European Union.

Member States are invited to strengthen the capacity of their Charter focal points with adequate human and financial resources to allow them to enhance coordination and cooperation with all relevant actors.

Member States should ensure that the impact of any legislative proposal falling within the scope of EU law is always assessed based on the principles and rights of the Charter. Besides a check against the national human rights standards and the ECHR, rules on impact assessments should explicitly require an effective assessment against the Charter, considering the interpretation given to its provisions by the Court of Justice of the European Union.



FRA OPINION 4.2

EU Member States should ensure that children, women, older people, people with disabilities and ethnic minorities who are in a vulnerable situation have access to judicial remedies and are informed of their procedural rights in an accessible manner, as required by EU law.

Legal practitioners often refer to Article 47 of the Charter (right to an effective remedy and to a fair trial). In addition, at the political level, access to justice remains an important topic, as evidenced by the European Commission's 2023 report on the application of the Charter. The report's focus in 2023 was on effective legal protection and access to justice. In line with earlier FRA reports, it concludes that barriers to access to justice remain. They include the insufficient provision of information, in particular on non-judicial remedies; practical difficulties in using e-justice solutions; insufficient arrangements to monitor the rights of the child in judicial proceedings; and varying degrees of inaccessibility of justice for vulnerable groups, including on economic grounds. All of these can prevent interested parties from seizing legal remedies.

FRA OPINION 4.3

EU Member States are encouraged to use or promote the use of all available EU funding for Charter-related training, especially the CERV and the justice programmes. These should serve to enhance awareness of the Charter among public officials in national, regional and local authorities.

Member States should ensure the meaningful participation of relevant fundamental rights actors in the monitoring process of relevant EU funds and provide targeted funding to improve their monitoring capacity and expertise.

Member States should ensure that their complaints mechanisms concerning the use of EU funds can identify any violation of the Charter and provide the necessary redress.

FRA's 2023 data suggest a positive trend in terms of training on fundamental rights. Increasingly, training on the Charter is provided not only to the members of the judiciary but also to civil servants, law enforcement, civil society, staff of national human rights institutions (NHRIs) and equality bodies, journalists and students. So far, such training activities do not seem to include regional and local authorities adequately. However, the CERV programme and the justice programme provide opportunities for co-funding relevant training activities.

An important area for Charter expertise is the implementation of EU funds covered by the common provisions regulation (Regulation (EU) 2021/1060). The regulation obliges Member States to make sure that the Charter is respected when implementing EU funds. It also allows NHRIs and equality bodies, as well as CSOs, to play an important role in monitoring the respect of fundamental rights when EU funds are used. FRA's 2023 report *EU Funds – Ensuring compliance with fundamental rights* found issues concerning the participation of fundamental rights bodies and civil society in the monitoring process, which appear to lack capacity, resources and Charter expertise.





The year 2023 brought both progress and setbacks in terms of fundamental rights protection. FRA's *Fundamental Rights Report 2024* reviews developments in the EU between January and December 2023, and outlines FRA's opinions thereon. Noting both achievements and remaining areas of concern, it provides insights into the main issues shaping fundamental rights debates across the EU.



PROMOTING AND PROTECTING YOUR FUNDAMENTAL RIGHTS ACROSS THE EU —

For the full FRA *Fundamental Rights Report 2024* – see
<https://fra.europa.eu/en/publication/2024/fundamental-rights-report-2024>

See also related FRA publications:

- FRA (2024), *Fundamental Rights Report 2024 – FRA opinions*, Luxembourg, Publications Office, <https://fra.europa.eu/en/publication/2024/fundamental-rights-report-2024-fra-opinions> (available in all 24 official EU languages and in Albanian, Macedonian and Serbian)
- Previous FRA annual reports on the fundamental rights challenges and achievements in the EU remain available on FRA's website (available in English and partly in French).

FURTHER INFORMATION



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