

# European Scrutiny Committee

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From: Sir William Cash MP

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## **Commission Communication: Strategy to strengthen the application of the Charter of Fundamental Rights (COM(20) 711) (ESC number 41695)**

Thank you for your [Explanatory Memorandum](#) on the European Commission's latest [Communication](#) on the EU Charter of Fundamental Rights. We note that the Commission intends to change the focus of its annual reports on the application of the EU Charter from 2021 to "ensure that Member States effectively apply the Charter when implementing EU law and launch infringements as appropriate where there is a breach of EU law".<sup>1</sup>

While the EU Charter ceased to apply in the UK from 1 January 2021, some EU law will continue to apply under the Protocol on Ireland/Northern Ireland:

- Article 2 of the Protocol requires the UK to ensure that there is no diminution in the rights and safeguards enshrined in six EU equality Directives (listed in Annex 1 to the Protocol) as a result of the UK's exit from the EU.
- Articles 5, 8 and 9 of the Protocol require the UK to apply in Northern Ireland EU customs laws and rules on trade in goods (listed in Annex 2 to the Protocol), EU rules on VAT and excise duty (listed in Annex 3) and EU law governing the wholesale electricity market (listed in Annex 4).

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<sup>1</sup> See p.7 of the Commission Communication.

- Article 10 requires the UK to apply EU State aid rules (listed in Annex 5) to domestic subsidies which affect trade between Northern Ireland and the EU.

All these laws will need to be implemented in conformity with the EU Charter and with the case of law of the EU Court of Justice interpreting the meaning and effect of Charter provisions. As the Commission notes in its Communication, “there can be no situation that is governed by EU law in which the Charter does not apply”. The Commission will have the same monitoring and enforcement powers in relation to EU laws applicable under the Protocol as it has under the EU Treaties.<sup>2</sup>

Given these facts, we would be interested to hear what steps the Government itself is taking to ensure that the domestic application of EU laws under the Protocol complies with the EU Charter and whether you expect the UK to be included in the Commission’s annual report on the Charter in 2021.

I am copying this letter to the Chair (Simon Hoare MP) and Clerk (Nick Beech) of the Northern Ireland Affairs Committee; the Chair (Rt Hon. Harriet Harman MP) and Clerk (Lucinda Maer) of the Joint Committee on Human Rights; the Chair (Sir Bob O Neill MP) and Clerk (David Weir) of the Justice Committee; the Chair (the Earl of Kinnoull) and Clerk (Stuart Stoner) of the Lords European Union Committee; Maxine Cristiano of your Department and Les Saunders and Donald Harris in the Cabinet Office.

**CHAIR**

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<sup>2</sup> Article 12 of the Protocol.