

StratAGEic Training Report – Session 3

Activating the EU Charter in Strategic Litigation

Online, 30 June 2026 – 9:30-13:00CEST

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Introduction

The third session of the StratAGEic training pathway, titled “**Activating the EU Charter in Strategic Litigation**”, took place online on 30 June 2026 from 9:30 to 13:00 CEST and was attended by 42 participants from various countries. Most participants were older persons with no legal background.

The session formed part of Work Package 2 of the StratAGEic project, which aims to strengthen knowledge, capacity and practical understanding of strategic litigation in relation to ageism, older people’s rights, and the EU Charter of Fundamental Rights.

This third and last online training concluded a learning pathway aimed to provide participants with a common foundation on strategic litigation, peer learning on case analysis and legal framing, until the activation of the EU Charter in strategic litigation.

The training showed that carefully selected cases can advance broader policy goals, strengthen rights protection, and influence future judicial decisions far beyond the immediate parties involved.

The training also highlighted that the Charter is a powerful source of rights protection, but its application depends on the presence of EU law, and litigants often achieve better results by framing arguments through specific EU legislation when possible. At the same time, the Charter remains a potent instrument for reviewing and, where necessary, invalidating EU measures that violate fundamental rights.

Structure and format

The training lasted three and a half hours and followed a progressive format combining expert input, moderation, reflection and group work.

The session was structured as follows:

- Introduction to the training by Nena Georgantzi, AGE Platform Europe
- Understanding Article 51 and the scope of the Charter by Sanja Jovicic, Fundamental Rights Agency
- Bringing cases and legal framing by Zuzana Vikarská, Masarykova University
- Linking structural issues to Charter rights, by Simona Florescu, Validity Foundation
- Group exercise: identifying legal hooks and EU law pathways
- Collective discussion and strategic reflections
- Final reflections by Nena Georgantzi, AGE Platform Europe.

The session opened with the introduction of the EU Charter of Fundamental Rights and its scope of application and then explored the fictitious Mangold case to understand the legal framing and implications of such a case on age discrimination. The training’s last presentation focused on leveraging human rights in strategic litigation, especially considering older people. The group exercises and the collective discussion that followed, reflected on two cases where many rights were violated and considered what could have been more strategic to be brought forward.

Accessibility and participation were considered throughout the session. Participants were invited to contribute orally, in the chat, or through listening and reflection. The session was framed as a learning space where participants did not need previous litigation experience to engage meaningfully.

Key learnings and insights

a) The EU Charter of Fundamental Rights

The Charter of Fundamental Rights of the European Union (the Charter - CFR) brings together the fundamental rights of everyone living in the European Union. Set to bring consistency and clarity to the rights established at different times and in different ways in individual EU Member States, the Charter sets out the full range of civil, political, economic and social rights based on:

- the fundamental rights and freedoms recognized by the [European Convention on Human Rights](#) (ECHR)
- the constitutional traditions of the EU Member States, for example, longstanding protections of rights which exist in the common law and constitutional law of the UK and other EU Member States
- the [Council of Europe's Social Charter](#)
- the Community Charter of Fundamental Social Rights of Workers, and
- other international conventions to which the EU or its Member States are parties

The Charter became legally binding on EU Member States when the Treaty of Lisbon entered into force in December 2009.

The Charter of Fundamental Rights of the European Union is sometimes confused with the European Convention on Human Rights. Although containing overlapping human rights provisions, the two operate within separate legal frameworks:

- the Charter of Fundamental Rights of the European Union was drafted by the EU and is interpreted by the Court of Justice of the European Union (CJEU)
- the European Convention on Human Rights was drafted by the Council of Europe in Strasbourg and is interpreted by the European Court of Human Rights

The Charter can be seen as the overarching framework for human rights in the EU, of which the European Convention on Human Rights forms only one part, albeit an important one.

Unlike the European Convention on Human Rights, which has been incorporated into UK law by the Human Rights Act, the Charter of Fundamental Rights only applies to matters concerning EU Law, but it can be raised in courts in the United Kingdom on such matters.

The Charter applies only when the EU Member States are acting within the scope of the EU law means that the EU law must have acquired and exercised competence in that scope, i.e. through regulations or directives.

The [European Union Agency for Fundamental Rights](#) (FRA) provides independent advice to EU institutions and Member States on the rights set out in the Charter. FRA also engages in legal and social science research to identify areas in the EU where further work needs to be done to meet international standards.

The Charter makes a distinction between **rights and principles**. While rights (e.g. freedom of expression; right of property) are justiciable, principles (e.g. art. 25 – elderly people; art. 26 – people with disabilities; art. 37 – environmental protection) are not but they are used to interpret rights and leave a margin of appreciation. There are also **hybrid provisions** that are both rights and principles (e.g. art. 23 - gender equality; art. 33 – family and professional life; art.34 -social security).

The Charter's rights can be restricted, as per the provision of **art. 52(1)**. It clarifies that such rights remain subject to the conditions and limits applicable to the Union law on which they are based, and for which provision is made in the Treaties. The Charter does not alter the system of rights conferred by the EC Treaty and taken over by the Treaties. Paragraph 3 is intended to ensure the necessary consistency between the Charter and the ECHR by establishing the rule that, in so far as the rights in the Charter also correspond to rights guaranteed by the ECHR, the meaning and scope of those rights, including authorised limitations, are the same as those laid down by the ECHR. This means in particular that the legislator, in laying down limitations to those rights, must comply with the same standards as are fixed by the detailed limitation arrangements laid down in the ECHR, which are thus made applicable for the rights covered by this paragraph, without thereby adversely affecting the autonomy of Union law and of that of the Court of Justice of the European Union.

FRA provides many different tools to understand whether the Charter is applicable in practice. The overview of the materials cited during the training is gathered online: <https://www.age-platform.eu/stratageic-useful-training-materials-to-protect-our-rights-when-ageing/>

Access to justice at the EU level via the Court of Justice of the EU is not as easy as in the ECHR's system. The CJEU's mandate is to ensure that EU law is interpreted and applied the same in every EU country and to ensure that countries and EU institutions abide by EU law. The CJEU centralizes the interpretation of EU law across all Member States, but the enforcement is done by the national courts. The CJEU settles **legal disputes** between national governments and EU institutions, and it can also, in certain circumstances, be used by **individuals, companies or organisations** to take action against an EU institution, if they feel it has somehow infringed their rights

There are three main proceedings to the CJEU:

- the infringement procedure addresses Member State non-compliance with EU law;
- the action for annulment challenges EU acts' validity;
- the preliminary reference procedure allows national courts to refer questions to the CJEU for interpretation of EU law.

Individuals can use some of those proceedings under certain conditions. The ruling of the CJEU is valid and applicable in all Member States.

With respect to art. 25 – Rights of the elderly, it has never been used by the CJEU. A report is available proposing short legal analysis but at this stage there is no case law related to the art. 25.

b) The Mangold case: relevance and lessons learned

The presentation explored the concept of strategic litigation through the landmark EU case Mangold v Helm (C-144/04) and examined the role of the EU Charter of Fundamental Rights in litigation before European courts. The presentation demonstrated how carefully selected legal cases can be used not only to resolve individual disputes but also to achieve broader legal and societal change. It further explained the scope, applicability, and practical use of the EU Charter as a tool for advancing fundamental rights protection within the European Union.

The case of Mangold concerned a fixed-term employment contract concluded between Mr. Mangold and his employer, Helm, from 1 July 2003 until 28 February 2004. The contract relied on a German law that allowed employers to conclude fixed-term contracts more easily with workers over the age of 52. The contract explicitly stated that the sole reason for its fixed-term nature was Mr. Mangold's age.

The Mangold case is a fabricated case, created for the very specific case to point out how problematic German employment law was. The legal challenge was particularly bold because:

- Directive 2000/78/EC prohibiting age discrimination had not yet reached its transposition deadline (the case dated 2003 and the Directive would have been enforced by the end of 2006).
- The EU Charter of Fundamental Rights had not yet acquired the status of primary EU law (the Charter became part of primary law after 2009).
- The legal basis for challenging the national legislation was therefore uncertain.

The Court addressed this by holding that the prohibition of age discrimination was not derived solely from the directive. Instead, it formed part of a broader general principle of EU law, rooted in international instruments and constitutional traditions common to Member States. This was a highly significant development because it enabled the Court to enforce the principle even before the directive became fully effective: ***“the principle of non-discrimination on grounds of age must be regarded as a general principle of Community law”***.

The Court concluded that the German legislation violated EU law. Rather than invalidating the German law directly, the Court relied on the principle established in Simmenthal (C-106/77), according to which national courts must ensure the full effectiveness of EU law, set aside conflicting national provisions and apply EU law even where national legislation remains formally in force.

This decision illustrates how a single case can transform legal practice across an entire legal system and that even fictitious cases can be strategic. Additionally, cases without injured people or tangible victims, the principle of non-discrimination applies, and the CJEU decides in favour of the protection of human rights.

There are of course risks of counterproductive outcomes (cf. *Brown vs. Board of Education* in 1954) whose consequences lasted long and it took over 50 years to overcome negative outcomes. The lesson is that even well-planned litigation may result in unfavorable precedents that can remain in place for decades. Strategic litigators must therefore carefully assess legal, social, and political conditions before bringing a case.

c) Linking Structural Issues to the Charter Rights

The presentation explored how structural issues affecting care, support, ageing, and vulnerable groups can be addressed through strategic litigation based on EU law and the EU Charter of Fundamental Rights. The focus was on protecting fundamental rights such as human dignity, autonomy, and equality.

A three-step approach was proposed for developing Charter-based litigation:

1. Identify the factual and legal issues at domestic level.
2. Establish the relevance of EU law.
3. Use an appropriate domestic legal procedure to bring the case.

Looking into the EU Charter and human rights in old age, it is relevant to underline that in 2010, one year after the adoption of the EU Charter, 123 cases were presented to the CJEU directly concerning older people but not directly referring to art. 25. Back in time, 82% of the cases concerned pensions (state-funded or employer-pensions). Looking at the outcome, 70% of the cases the CJEU was in favour of the plaintiffs.

When deciding whether to pursue Charter-based litigation, several factors should be considered:

- Average decision time of approximately 15 months.
- Potential for increased visibility of the issue.
- Importance of carefully selecting test cases.
- Strong enforcement mechanisms through the European Commission.
- Potentially fewer budgetary constraints compared with other litigation routes.

The analysis shared during the training let emerged that administrative case (e.g. on social policy, pensions, refugees) have higher chances to be up taken, provided that they were related to EU competence. The future jurisprudence may however broaden such horizon.

Getting practical into using the Charter for strategic litigation, it is important to consider the factual and legal issues at domestic level (such as access to public services, intergenerational issues, elder abuse in institution) where legislation is in place but practice lags behind.

It is also important to consider procedural accommodation; i.e. specific accommodation provided to persons needed support to access the court.

d) Group exercise

After the break, participants were invited to reflect on two cases designed to help participants practise strategic thinking.

The presenter encouraged participants to assess:

- Whether there is an issue involving EU law.
- Whether national law may be implemented or reflecting EU law.
- Whether the application of national law conflicts with EU law.
- Whether procedural accommodations or accessibility measures are required.

Participants were divided into two groups, one discussing Case Study 1: “*A Passport for Elena*” and the other discussing Case Study 2: “*Denmark and Romania*”.

Case Study 1 - A passport for Elena

Elena, an 80-year-old woman, needs to renew her passport. Following a change in administrative procedures, passport applications can only be submitted online. Elena experiences difficulties using the digital system and is unable to complete the process. When she visits the passport office, she finds no staff available and only self-service kiosks. During the visit she is distracted by an incident involving her dog and becomes the victim of theft, losing her identification documents.

The facts reveal several potential legal concerns:

- Digital-only public services may create barriers for older persons who lack digital skills or access to technology.
- The absence of alternative, accessible administrative procedures may constitute indirect discrimination based on age.
- The removal of human assistance from essential public services affects equal access to public administration and public services.
- The case highlights a broader structural issue: the digitalisation of public administration without adequate safeguards for persons who may be digitally excluded.
- The trainer could additionally highlight also that the loss of identity documents may further restrict Elena's ability to exercise her rights, including freedom of movement and access to public services.

The exercise also invited participants to apply Prof. Doron's message about the authentic voice of older people. Groups were encouraged to ask whether older people were merely affected by the problem, or whether they were also shaping the response.

Case Study 2 – Denmark and Romania

Lars, a 76-year-old Danish citizen, travelled to Romania. Before travelling, he had executed an advance directive and appointed his same-sex partner, Mark, as

healthcare proxy under Danish law. After suffering severe injuries in a traffic accident in Romania, he became unconscious and unable to communicate. Romanian authorities and medical professionals questioned the validity of the advance directive and refused to recognize Mark's status because Romania does not recognize either advance directives in the same manner or same-sex partnerships. This created uncertainty regarding medical decision-making and respect for Lars's wishes.

Several interconnected legal issues emerge:

- Recognition of advance directives across EU Member States.
- Recognition of powers of representation granted under another Member State's law.
- Respect for personal autonomy and self-determination in healthcare decisions.
- Recognition of same-sex partnerships for specific legal purposes.
- Cross-border protection of vulnerable adults.
- Similarly to Case Study 1, this case also raised the issue of freedom of movement (travel in the EU for holiday).

4. Participation and engagement

The training involved all participants and although most of them did not rely on any legal background, they could reflect on the given cases and appreciate the connection of practical challenges with potential legal remedies under EU law.

Following a round of feedback from participants, the training highlighted several areas where rights-based litigation may be relevant for them. Survey results from participants suggested interest in:

- State-funded pensions (52%)
- Employer-based pensions (30%)
- Age discrimination (5%)
- Mandatory retirement (5%)
- Home care (5%)
- Health care (2%)
- Regulation of nursing homes (1%)

5. Conclusion

The training emphasized the value of using EU law and the Charter of Fundamental Rights as tools to challenge structural barriers and rights violations, particularly in areas such as ageing, care, pensions, and discrimination.

Participants were encouraged to identify strategic cases, assess the applicability of EU law, and consider the preliminary reference procedure as a powerful mechanism for advancing human rights, dignity, autonomy, and equality across the life course.

Overall, the presentation illustrated how strategic litigation and the EU Charter can work together as powerful tools for legal and social change within the European Union.

7. List of annexes

The following annexes may be added once available:

- Final agenda
- Presentations
- Group exercise materials
- Evaluation results

Annex I – Agenda

Time	Session
9:30 – 9:40	Introduction to the training Nena Georgantzi, AGE Platform Europe
9:40 – 10:25	Understanding Article 51 and the scope of the Charter (incl. Q & A) Sanja Jovicic, Fundamental Rights Agency
10:25 – 10:55	Bringing cases and legal framing (incl. Q & A) Zuzana Vikarská, Masarykova University
10:55 – 11:10	Break
11:10 – 11:40	Linking structural issues to Charter rights Simona Florescu, Validity Foundation
11:40 – 12:15	Group exercise: identifying legal hooks and EU law pathways
12:15 – 12:45	Collective discussion and strategic reflections
12:45 – 13:00	Final reflections Nena Georgantzi, AGE Platform Europe

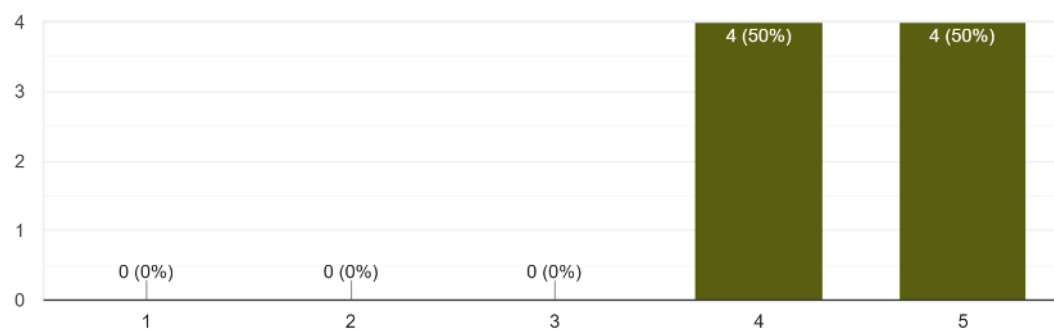
Annex II – Presentations and materials

<https://www.age-platform.eu/stratageic-useful-training-materials-to-protect-our-rights-when-ageing/>

Annex III - Evaluation

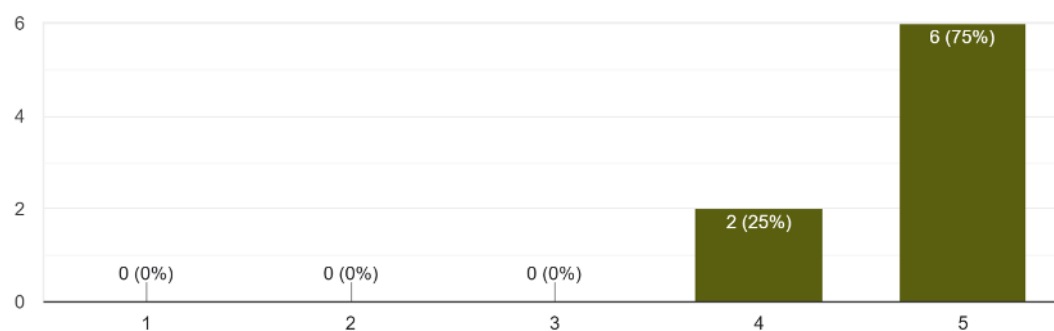
How satisfied were you with the event?

8 responses



How relevant and helpful do you think it for you?

8 responses



What were your key take aways from this event?

6 responses

It is necessary to know the law in my country and get started to pratical cases

How strategic litigation is and how to make it work

The limits of justice and how far we are to have citizen knowledge on rigths and litigation

The time factor is very important and is not considered-

A lot of relevant information applicable to the development of the project

The EU Charter Fundamental rights

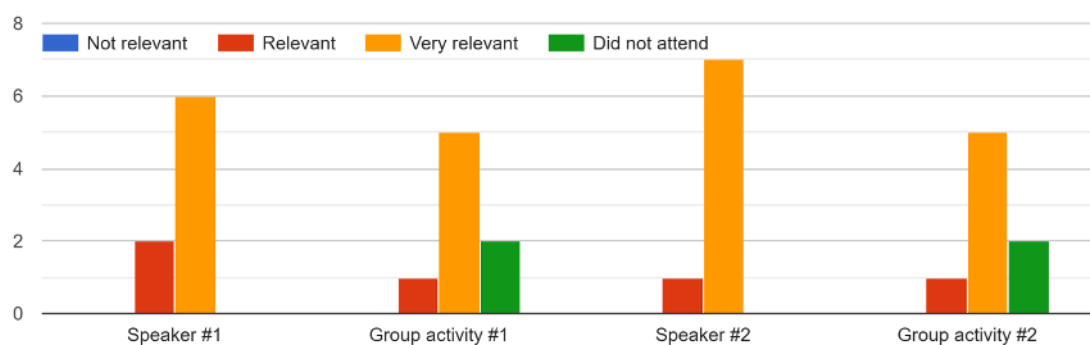
Any feedback on logistics?

2 responses

Pleas talk a little slower because of people that don't speak very well the English... :)

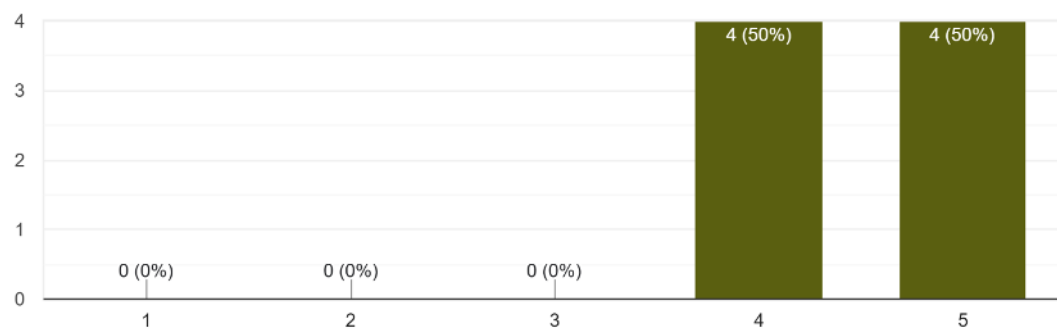
It was very full of information but very interesting

Which sessions did you find most relevant?



How satisfied were you with the session content?

8 responses



Any additional comments regarding the sessions or overall agenda?

1 response

Very interesting the last presentation and the practical part with Simona Florescu

Any overall feedback for the event?

2 responses

Exclente session

Thank very much and I am looking forward to the next steps!!

For more information, please contact adela.santos-lavigne@enil.eu and ilenia.gheno@age-platform.eu.
