

OUTSIDE THE BOX

Heather Grabbe asks whether Viviane Reding will prove to be a new champion for Europeans' rights

In her previous term as commissioner, Viviane Reding showed a rare talent in the college for communicating in sound-bites that citizens could understand – memorably on cutting mobile phone roaming charges – and she enjoys media attention.

She could use that talent to give a much higher profile to what has until now been the Cinderella among justice, liberty and security priorities in her new role as the first commissioner explicitly tasked with defending European citizens' fundamental rights.

Reding also has a golden opportunity to mainstream the protection of personal freedoms in many EU policies, as the Charter of Fundamental Rights becomes legally binding in every area of EU law under the Lisbon Treaty. Although the Charter does not create any specific new rights, it will allow individuals to challenge how member states implement EU law if they infringe those enshrined in it.

But will a higher political profile and a legally binding Charter make much difference to the personal freedoms enjoyed by European citizens? Will they care? On the whole, Europeans are much less exercised about being protected from state interference than are Americans, many of whom retain their homesteader frontier-culture, hold dear their right to bear arms and want to keep the federal government at bay. Europeans generally look to the state to provide them with services, benefits and protections against threats to their security – rather than seeking to limit its powers of intrusion in their private lives.

Even in the southern and eastern European countries that regained democracy in recent decades, people do not debate fiercely whether the state should have fewer powers and individuals should have more rights. Across the EU, there is much more political debate about collective rights, for minorities in

particular, than individual freedoms, despite the expansion of counter-terrorism measures since September 11 2001.

Moreover, the concept of liberty is still very diverse across the EU members. "Civil liberties" remain an Anglo-Saxon concept, which has to be translated into other European languages as something like public and private freedoms. Take just the three largest member states – France, Germany and the UK – and look at whom citizens trust to protect their freedoms.

France remains a very strong state and its police have very broad powers, with citizens looking to the state to protect them from terrorism and manage the economy, while keeping open a valve for popular dissent through street protests and strikes. By contrast, Germans hold dear their Basic Law and Constitutional Court, relying on codified rights and obligations that are firmly embedded in society through schooling.

The British enjoy no written constitution, but trust their courts, common law and trial by jury. This is one reason why Eurosceptics are so powerful in the UK, and so obsessed with the EU's

in any country in the world.

In a time of economic crisis, it may seem indulgent to complain about the erosion of civil liberties. People are much more worried about their prosperity than their rights at the moment. Yet the liberty of individuals to live their lives as they choose is under threat.

Across Europe, there is rising intolerance and scapegoating of marginalised groups as societies are coming under economic pressure. Look at the gay-bashing in Poland, murders of Roma families in Hungary, the Czech Republic and Romania, state-sponsored discrimination against the Roma in Italy, and the targeting of immigrants everywhere. The European elections last June saw a record number of openly racist parties gaining seats. These developments do not just affect minorities and people at the margin of societies. They also affect the kind of society that the majority population lives in, because such intolerance invites more state intrusion and less individual freedom.

One of Viviane Reding's major tasks in the next five years will be to earn the

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growing role in criminal justice. It is no coincidence that the British Eurosceptics love to warn about a mythical "superstate" – they do not believe that supranationalism can work, and they look to the nation state to protect them.

Yet British citizens have recently seen a massive erosion of their freedoms because of counter-terrorism legislation which extended detention without charge, allowed the state to gather extensive personal information, and developed the most extensive network of cameras in public places

respect of citizens for the Charter of Fundamental Rights by showing it can protect civil liberties and basic rights for all. At a time when EU governments are committed to pooling more data about citizens, we need the Charter to ensure that the data are not used to infringe freedoms. It is up to civil society organisations to help the new commissioner to build a robust and vigilant constituency in Europe for liberty.

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