

“ Lawyers for Lawyers “

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TRAINING MANUAL ON HUMAN RIGHTS AND HUMAN RIGHTS PROTECTION FOR LAWYERS

FILE N° 8: THE PROTECTION OF HUMAN RIGHTS IN THE EUROPEAN UNION

Although human rights are not covered in the founding treaties of the European Union, there are references to human rights in later treaties and particularly in the **case law of the Court of Justice of the European Union¹** (CJEU).

The CJEU¹ introduced a set of **general principles of community law** which include "respect for fundamental rights²". The Court identified several sources for these principles:

- The *national laws of Member of States* (constitutional traditions common to the various States);
- *International instruments relating to the protection of fundamental rights* which the Member States have adhered to or cooperated with, such as the European Social Charter adopted by the Council of Europe.
- The *European Convention on Human Rights*, which was confirmed as one of these sources in *Rutili*, a CJEU judgment delivered on 28 October 1975, and subsequently in Article 6 of the Treaty of the European Union, which, in the version as revised by the Treaty of Amsterdam, states that "the Union is founded on respect for human rights ... as guaranteed by the European Convention on Human Rights".

In addition, Article 49 of the Treaty acknowledges that the CJEU¹ has jurisdiction with respect to the application and interpretation of this article. All the Member States of the European Union are also parties to the European Convention on Human Rights.

Finally, with the coming into force of the Lisbon Treaty on 1 December 2009, the European Union acquired legal personality and it may therefore adhere to the European Convention on Human Rights.

These developments have made it possible to include respect for and the promotion of human rights in the objectives of the European Union (which were only economic at the outset), and thereby in the obligations of the Member States.

¹ "Court of Justice of the European Communities" prior to the coming into force of the Treaty of Lisbon on 1 December 2009.



The **Charter of Fundamental Rights of the European Union**, which was adopted in 2000 at the European Council of Nice, is another source of fundamental rights in Europe. Before the Treaty of Lisbon came into effect its value was only political, but thanks to that Treaty it now has legal force.

The Charter confirms civil, political, economic and social rights involving six essential values: dignity, liberty, equality, solidarity, citizenship and justice.

However, it does not create any specific right of recourse in the event that a right that it acknowledges is violated.

Finally the European Union has developed several **politico-administrative mechanisms** to protect and promote human rights:

- The *European Parliament* presents an *annual report on human rights* in non-EU countries and another on the respect for fundamental rights in the European Union (the Subcommittee on Human Rights of the Foreign Affairs Committee monitors the defence of human rights outside the European Union).
- The *European Commission* implements *specific programmes* intended to encourage the *promotion of human rights*, which are managed by the Directorate-General for Justice, the Directorate-General for Employment, Social Affairs and Equal Opportunities, or the Directorate-General EuropeAid Development and Co-operation for external action.
- The *Council of the European Union* has a specialist human rights group among the groups that do its preparatory work. It has responsibility for implementing and monitoring guidelines relating to human rights whose aim is to improve the Union's external action in this area. Guidelines have been adopted in the 8 areas: the death penalty; torture, inhuman and degrading treatment; dialogues on human rights with non-EU countries; children and armed conflict; human rights defenders; the promotion and protection of the rights of the child; violence to women and girls and combating discrimination against them; international humanitarian law.
- The European Union has a *network of independent experts who are charged with assessing the respect of fundamental rights* by Member States. It produces an annual report (the network has one expert from each Member State).
- The *European Ombudsman* is an autonomous entity who is charged with investigating complaints lodged by citizens, or on his/her own initiative, in cases involving maladministration in actions taken by the institutions or bodies of the European Union.
- The *European Union Agency for Fundamental Rights* is an independent body that was created in 2007, whose mission is to protect and promote the rights of European citizens by gathering information and data on fundamental rights and formulating advice for the EU and its Member States. It also ensures that citizens are better informed about fundamental rights.

The European Union's desire to further fundamental rights can also be seen in its common policies (e.g. employment, social rights, equality of opportunity) and external policies (e.g. human rights and democracy, rights of the child, etc.).

Sources:

- European Union portal: http://europa.eu/index_en.htm
- European Commission website: http://ec.europa.eu/index_en.htm
- Council of the European Union website: <http://www.consilium.europa.eu/showPage.aspx?id=1634&lang=EN>
- European Parliament website: http://www.europarl.europa.eu/news/public/default_en.htm
- European Ombudsman website: <http://www.ombudsman.europa.eu>
- European Union Agency for Fundamental Rights website: http://europa.eu/agencies/community_agencies/fra/index_en.htm
- Natalie Fricero, *Droit européen des droits de l'Homme*. Mémentos LMD, pub. Gualino, 2007.
- Henri Oberdorff, *Droits de l'Homme et libertés fondamentales*, LGDJ, 2010

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