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HUMAN RIGHTS PROTECTION AT INTERNATIONAL, SUPRANATIONAL AND NATIONAL LEVEL



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Fundamental rights in the EU legal order

- Why FR protection in the EC/EU?
- Evolution of FR protection
 - in the ECJ Case-law
 - in the Treaties - „Art. 6“
- The Charter – the written catalogue of FR
- The Treaty of Lisbon and the 3 pillars of FR protection in the EU (Art. 6. TEU)

Why a FR Charter for the EU?

- EU: Economic cooperation → Political integration
- Expansion of competences
- Economic and technical development
- No limitation by HR

HUMAN RIGHTS DEFICIT

Evolution of FR in the ECJ case-law

Do FR form part of the EC/EU law?

- Stork (1/58) – *rejection of FR being part of the EC legal order*
- Stauder (29/69) - *FR form part of the general principles of Community law*
- Internationale Handelsgesellschaft (11/70) – *national FR can't affect the validity of Community law **BUT!** examination of possibly existing analogous principles*

Evolution of FR in the ECJ case-law

- Hauer (44/79) – *FR indeed form an integral part of the general principles of Community law*
- Nold (4/73) – *attention is paid to international HR treaties*

Evolution of FR in the ECJ case-law

Who is obliged by the EC/EU FR?

- Defrenne II (43/75) – *not only EC/EU organs but also member states and individuals shall respect FR, these can be evoked before the courts*
- Wachauf (5/88) – “agency formula” of MS *obligation: if MS acts on behalf of the Union, it shall respect EU FR*
- ERT (C-260/89) – “ERT-formula”: *if an act of the MS restricts a fundamental freedom, it shall be scrutinized by the ECJ in the light of EU FR*

Evolution of FR in the ECJ case-law

FR acknowledged by the ECJ (case law)

- Human dignity
- Prohibition of discrimination
- Right to property
- Freedom to choose an occupation
- Respect for private-/family life and home
- Right to physical integrity
- Freedom of religion
- Freedom of expression and information
- Freedom of assembly
- Freedom to conduct a business

Evolution of the primary legal sources

Only Art. 6 (3) TEU appears expressis verbis in former documents:

-SEA (1986): *“... to display the principles of democracy and compliance with the law and with human rights to which they are attached, so that together they may make their own contribution to the preservation of international peace and security...”*

Evolution of the primary legal sources

- **TEU (Maastricht, 1992):** *“The Union shall respect fundamental rights, as guaranteed by the [... ECHR...] and as they result from the constitutional traditions common to the Member States, as general principles of Community law.”*
- **Treaty of Amsterdam (1997):** *same wording*

Evolution of the primary legal sources

The Fundamental Rights Charter

- Nice, 2000
- Rounds up the FR in a “state of art” form
- Initially no legal binding force – but used as an orientation point by the ECJ and ECtHR
- Intended part of the former European Constitution
- Legal binding force gained through the Lisbon Treaty

The Treaty of Lisbon (2007)

- Additional provisions in (1) and (2)
- Gives legal binding force to the Charter
- Limits the competences of the Union
- Foresees the accession of the EU to the ECHR
- Speaks of “...*general principles of Union law*.”

The connections of Art. 6 TEU

**Art. 6 TEU – the
“anthropocentric”
dimension of the
EU**

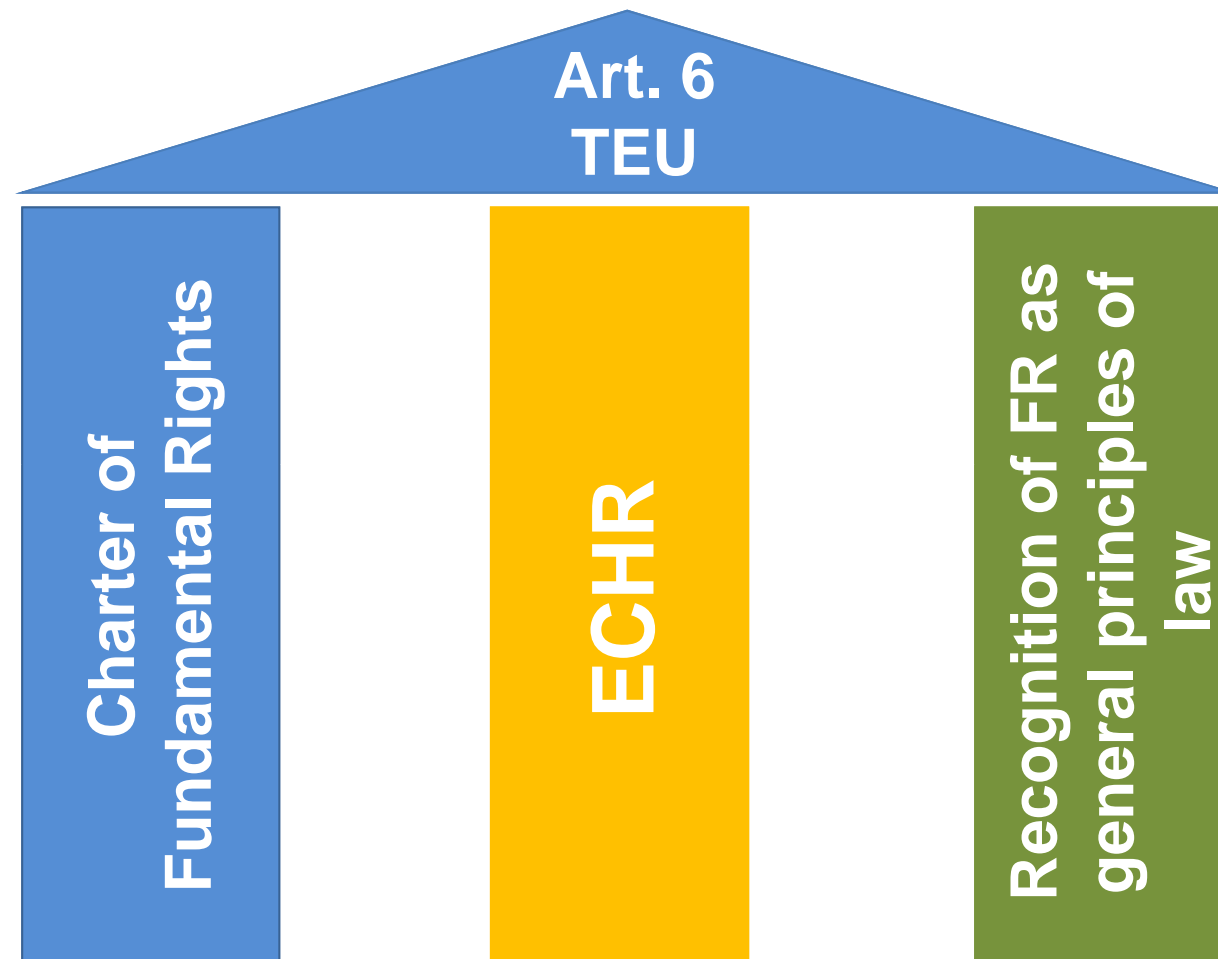
**Basic principles
(Art. 2 TEU)**

**Objectives of the EU
(Art. 3 TEU)**

**Democratic principles
(Title II TEU)**

**Accession criteria
(Art. 49 TEU)**

3 pillars of the FR standard in the EU now





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**THANK YOU FOR YOUR
ATTENTION!**



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