

The EU Charter of Fundamental Rights and the National Judiciary & The EU Charter of Fundamental Rights and judicial cooperation in civil matters

Luxembourg, 25 – 26 October 2022

Organized by EIPA – European Institute of Public Administration

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Programme

Target group

This hybrid (in person and online) seminar is aimed at judges, prosecutors and lawyers whose activity is related generally to EU law, especially, but not limited to, applying and carrying out EU judicial cooperation instruments based on the principle of mutual recognition. Simultaneous interpretation into Polish, French, Lithuanian and Spanish will be provided.

Seminar description

These advanced modules will build on the foundation laid down in the asynchronous introductory modules on fundamental rights and data protection. During the first advanced module (day 1) we will explore more in depth the relevance of the EU Charter of Fundamental Rights for the national judiciary. In particular, we will address the field of application of the Charter, the standards of protection it provides, its relationship to national constitutional traditions and to the European Convention on Human Rights. Then in the second advanced module (day 2) we will address the application of the Charter in the context of judicial cooperation in civil matters (day 2) and focus especially on three fundamental rights: the right to marry and to found a family (Article 9), the rights of the child (Article 24), and the right to an effective remedy and to a fair trial (Article 47).

Throughout the seminar emphasis will be put on how the Charter is relevant for national courts and on mutual recognition instruments and the challenges arising, in terms of fundamental rights protection, from the use of those instruments.

Methodology

Each thematic session will entail a presentation of the policy context and/or relevant legal concepts and landmark case law, followed by a discussion of recent (including pending) CJEU cases that will serve as case studies with which participants will be encouraged to engage.

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TUESDAY 25 OCTOBER 2022

The EU Charter of Fundamental Rights and the National Judiciary

- 09.00** Registration of participants
- 09.15** **Warm-up: Recap and Introduction**
A short quiz on the contents of the asynchronous introductory modules will be followed by an introduction to the programme of the advanced modules
- 09.30** **When does the Charter apply?**
This session will focus on the field of application of the Charter and participants will develop their abilities to identify situations where the Charter is applicable by national courts.
- 10.15** Discussion
- 10.30** Break
- 10.45** **The relationship between the Charter and the domestic law of the Member States**
In this session we will recall the main principles governing the relationship between EU law and domestic law (e.g. direct effect, primacy) and then address the specificities of the relationship between the Charter and domestic legal orders of the Member States.
- 11.30** Discussion
- 11.45** Break
- 12.00** **The relationship between the Charter and the European Convention on Human Rights**
We will address the notion of the level of protection granted by the Charter and the connections between the Charter and the ECHR as well as the practical challenges which may arise from the interaction between those two instruments before national courts.
- 12.45** Discussion
- 13.00** Lunch Break



- 14.00** **Judicial cooperation, mutual trust and fundamental rights challenges**
Before moving on to advanced modules where topical issues of civil then criminal matters will be addressed, this session will provide an overview of a tension that is common to all policy areas within the Area of Freedom, Security and Justice – that is, the tension between mutual trust (allowing for the implementation of mutual recognition instruments) and the requirements of fundamental rights protection.
- 14.45** **Discussion**
- 15.00** **Break**
- 15.15** **Case studies**
A selection of recent CJEU cases will serve as the basis for interactive case studies.
- 16.00** **Discussion**
- 16.15** **Survey**
- 16.30** **End of the Module**

WEDNESDAY 26 OCTOBER 2022

The EU Charter of Fundamental Rights and judicial cooperation in civil matters

- 09.00** Registration of participants
- 09.15** **Warm-up: Recap of first day**
In the form of an interactive quiz
- 09.30** **Mutual recognition instruments in civil matters and fundamental rights challenges**
This session will provide an overview of mutual recognition instruments in civil matters and an opportunity to discuss the case law on the application of the Charter in this context.
- 10.15** **Discussion**
- 10.30** **Break**
- 10.45** **The right to marry and to found a family (Article 9)**
We will present the main sources of inspiration of the right to marry and to found a family enshrined in Article 9 of the Charter, identify its main implications to EU regulated parental and matrimonial matters, through the case law of the CJEU's case law.



11.30 Discussion

11.45 Break

12.00 **The rights of the child (Article 24)**

We will present the main sources of inspiration of the rights of the child enshrined in Article 24 of the Charter, identify the main implications to EU family law in particular parental responsibility and child abduction, through the case law of the CJEU's case law.

12.45 Discussion

13.00 Lunch Break

14.00 **The right to an effective remedy and to a fair trial (Article 47)**

We will discuss the rich and complex origins of the right to an effective remedy and a fair trial now enshrined in Article 47 of the Charter, identify its implications for judicial cooperation in civil matters, and discuss its applications by the CJEU in that area.

14.45 Discussion

15.00 Break

15.15 **Case studies**

A selection of recent CJEU cases will serve as the basis for interactive case studies.

16.00 Discussion

16.15 Survey

16.30 End of the Module

