

EU Charter on Fundamental Rights and judicial cooperation in criminal matters I & EU Charter on Fundamental Rights and judicial cooperation in criminal matters II

Madrid, 2 - 3 March 2023

Organized by EIPA – European Institute of Public Administration

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Programme

Target group

This 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 third advanced module (day 1) we will explore the scope and application of the EU Charter on Fundamental Rights, standards of protection, focusing on when and how the EU Charter is relevant for national courts especially in judicial cooperation in criminal matters cases with a particular view to Article 4 - Prohibition of torture and inhuman or degrading treatment or punishment; Article 6 - Right to liberty and security; Article 47 - Right to an effective remedy and to a fair trial. Then in the fourth advanced module (day 2) we will address the application of the Charter with a particular view to Article 48 - Presumption of innocence and right of defence; Article 49 - Principles of legality and proportionality of criminal offences and penalties Article 50 - Right not to be tried or punished twice in criminal proceedings for the same criminal offence

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. In our discussion we will make reference to the standards of protection afforded by the European Convention of Human Rights (ECHR) as interpreted by the European Court of Human Rights (ECtHR).

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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THURSDAY 2 MARCH 2023

EU Charter on Fundamental Rights and judicial cooperation in criminal matters I

- 09.00 Registration of participants
- 09.15 **Warm-up and Recap**
*A short quiz on **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. *contents of the asynchronous introductory modules will be followed by an introduction to the programme of the advanced modules**
- 09.30 **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
- 10.15 Discussion
- 10.30 Break
- 10.45 **Prohibition of torture and inhuman or degrading treatment or punishment - Article 4 Charter**
In this session we will discuss what limitations does the prohibition from torture as protected by Article 4 of the EU Charter places on judicial cooperation in criminal matters and discuss the C-404/15 - Aranyosi and Căldăraru ruling of the CJEU and its aftermath extensively.
- 11.30 Discussion
- 11.45 Break
- 12.00 **Prohibition of torture and inhuman or degrading treatment or punishment - Article 4 Charter**
In continuation of the previous session we will discuss what is regarded as adequate detention conditions in the context of the Article 4 of the Charter bearing a particular relevance in the execution of judicial cooperation in criminal matters instruments, especially the European Arrest Warrant.
- 12.45 Discussion
- 13.00 Lunch Break



- 14.00 Right to liberty and security - Article 6**
The right to liberty and security are particularly relevant for the EU's actions in the field of criminal law, where several measures potentially impinge on personal liberty. Our discussion will include a comparison of standards of protection afforded by the ECHR as interpreted by the ECtHR and that of the Charter.
- 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**

FRIDAY 3 MARCH 2023

EU Charter on Fundamental Rights and judicial cooperation in criminal matters II

- 09.00** Registration of participants
- 09.15 Warm-up: Recap of first day**
In the form of an interactive quiz
- 09.30 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 criminal matters, and discuss its applications by the CJEU in that area.
- 10.15 Discussion**
- 10.30 Break**
- 10.45 Presumption of innocence and right of defence - Article 48**
In this session the presumption of innocence as a fundamental guarantee of a fair trial will be mapped out together with the right of the defence with a view of the protection afforded by the Charter and EU secondary law.
- 11.30 Discussion**
- 11.45 Break**



- 12.00 Principles of legality and proportionality of criminal offences and penalties - Article 49**
The session revisits the principle of legality is a fundamental principle in EU law and key to provide safeguards against arbitrary prosecution and punishment to see the protection ensured by the Charter and how that corresponds to Article 7 of the ECHR.
- 12.45 Discussion**
- 13.00 Lunch Break**
- 14.00 Right not to be tried or punished twice in criminal proceedings for the same criminal offence - Article 50**
The rich caselaw of the CJEU on the ne bis in idem principle will be mapped out and the limits of its application to under the Charter will be discussed.
- 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**

