

# Fundamental rights protection in the context of criminal proceedings in the European Union: The application and relevance of the Charter of Fundamental Rights of the European Union and EU legislation

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## Introduction

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**Description:** The European Union's Area of Freedom, Security and Justice, based on the principles of mutual trust and mutual recognition, is preconditioned on the full respect of fundamental rights, which are also the founding values of the European Union. It is the duty and responsibility of EU Member States to ensure compliance with fundamental rights when acting under the scope of EU law, and even more so when they administer criminal proceedings involving the application of EU criminal law instruments. Today, the EU Charter of Fundamental Rights is the pivotal instrument to make recourse to when rights are to be identified and protection standards are pitched. Thus, the proper understanding of the EU Charter, its relevance in national criminal proceedings, and its relationship to the European Convention on Human Rights is key for ensuring that rights under the EU Charter are given full effect, in particular in the context of criminal proceedings.

**Objectives:** The objective of the training is twofold. Firstly, to **present the EU Charter as being the comprehensive framework of fundamental rights within the European Union, its scope, effect, standard of protection afforded**, and to discuss its relevance in national criminal law proceedings. Secondly, to show how the **EU procedural guarantees series of legislation are embedded in the EU's wider fundamental rights context, provided by the EU Charter and the EU general principles of law**, and to discuss how the ECHR is relevant in setting EU protection levels.



## List of Experts (to be confirmed)

**Ralph Bunche**, Regional Directeur-Europe, Fair Trials, Brussels, [ralphbunche@gmail.com](mailto:ralphbunche@gmail.com)

**Katarzyna Dabrowska**, Criminal defence lawyer, Pietrzak and Sidor, Warsaw, ([Dabrowska@PietrzakSidor.pl](mailto:Dabrowska@PietrzakSidor.pl))

**Monika Skinder-Pik**, *Prosecutor* at the Gdansk Circuit Public Prosecutor's Office, [mskinder@poczta.fm](mailto:miskinder@poczta.fm)

**Stephanie Bosly**, Legal Advisor and Head of Unit, Federal Public Service Justice, General Directorate for Legislation, Fundamental Rights and Freedoms, EU Criminal Law Unit, [Stephanie.bosly@just.fgov.be](mailto:Stephanie.bosly@just.fgov.be)

**Holger Matt**, Chair of the European Criminal Bar Association, Specialist lawyer in criminal law ([kanzlei@dr-matt.de](mailto:kanzlei@dr-matt.de))

**Daniel Bernard**, former seconded national expert at the Belgium desk at Eurojust, former EJTN contact point and JIT expert for Belgium, former Belgian liaison magistrate in Morocco, [danibernard@gmail.com](mailto:danibernard@gmail.com)

## EIPA Luxembourg - European Centre for Judges and Lawyers

**Petra Jeney**, *Senior Lecturer*, [p.jeney@eipa.eu](mailto:p.jeney@eipa.eu)

**Christiane Lamesch**, *Programme Organiser*, [c.lamesch@eipa.eu](mailto:c.lamesch@eipa.eu)

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## DRAFT Programme

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### DAY 1

- 09.00 **Welcome and mutual introduction**
- 09.15 **General introduction to the EU Charter**  
Coming into force and relevance of the EU Charter, scope, rights covered and standards of protection horizontal provision, the Charter's relation to national protection of fundamental rights.
- 10.45 Coffee break
- 11.15 **Scope of application of the EU Charter**  
The specific scope of the EU Charter will be discussed and it will be highlighted in what instances EU Member States act under the scope of the EU Charter 'when implementing EU law', hence operate under the auspices of the EU Charter. (C-399/11, *Stefano Melloni v. Ministerio Fiscal*, C-617/10, *Åklagaren v. Hans Åkerberg Fransson*)
- 12.45 Lunch
- 14.00 **EU legislation on procedural guarantees for suspected and accused persons and their relevance to fundamental rights protection in the EU**  
The session will examine in detail how Charter provisions are mapped out in EU secondary legislation to provide a fuller set of fundamental rights guarantees. In this vein the following instruments will be discussed: Directive **2013/48/EU** on the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings and the right to have a third party informed upon deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty. Directive **2010/64/EU** on the right to interpretation and translation in criminal proceedings as well as Directive **2012/13/EU** on the right to information in criminal proceedings.

15.45 Coffee break

16.15 **Workshop**

A case study will be presented highlighting the fundamental rights issues in an EAW case with a specific reference to the procedural guarantees. The EAW and fundamental rights related aspects of the case will be discussed with the participants.

17.30 **End of Day 1**

**DAY 2**

09.00 **Human rights protection in the context of EU criminal law, with a particular reference to the European Arrest Warrant**

The session will explore the basic tenets of fundamental rights protection in the EU where particular attention will be made on the CJEU's case law on the interplay between EU fundamental rights protection and the application of the EAW will specifically referred to. (C-404 & 609/15 PPU, *Pál Aranyosi and Robert Căldăraru v. Generalstaatsanwaltschaft Bremen*)

10.30 Coffee break

11.00 **Workshop**

A case study will be presented highlighting the fundamental rights issues in an EAW case with a specific reference to the procedural guarantees. The EAW and fundamental rights related aspects of the case will be discussed with the participants.

12.00 **The interplay between the European Convention of Human Rights and the EU Charter of Fundamental Rights**

This session will explain the stance and relevance of the European Convention of Human Rights in EU law its specific relationship to the Charter. The session will also discuss how the European Court of Human Rights reviews EU law and its compatibility with the rights protected in the Convention (ECtHR *Bosphorus Hava Yollari Turizm Ve Ticaret Anonim Sirketi v. Ireland* Appl. No. 45036/08, judgment, ECtHR *M.S.S. v. Belgium and Greece*, Appl. No. 30696/09, ECtHR *Avotīņš v. Latvia*, Appl. No. 17502/07)

13.00 **Evaluation**

**END OF SEMINAR**

