

The making, implementation and protection of rights in the Charter of Fundamental Rights of the European Union

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1. Introduction

In this paper the author wants to investigate the issue of the Charter of Fundamental Rights of the European Union. Having in mind the specifics of the European integration, it is obvious that the basis of the foundation of the Charter of Fundamental Rights was a political compromise. That is why one needs to look closely at the preparation process and all the political turmoil that accompanied the creation of the Charter to fully understand what it exactly is and what legal norms it creates for both EU institutions and EU citizens. It is also important to highlight the influences of other legal acts in the Charter and the fact that in most cases they overlap. The author wants to proceed to the description of the preamble and the fifty four articles and indication what legal status they create for the EU institutions and courts of all of the Member States. To create this analysis the author will use, above all, the core text of the Charter of Fundamental Rights with the official commentaries attached. This will be proceeded with the legislation of the European Court of Justice and legal analysis of the charter itself.

2. The making of the charter

All narratives of the history of the creation of the European Union emphasize the fact that it was a reaction to the shock of the Second World War and its aftermath. The reasons standing behind the founding of such an institution were numerous. First of all the problem lied in Germany. After the unification of the country in 1871 it became a major power on the European continent and as seen in the cases of both World Wars a rather aggressive force. In 1945 the country was occupied by the Allies and divided into two occupation zones. It was clear that it was an ad hoc situation and some moves were required in order to prevent the rising of the German threat again. Secondly something had to be done in order to prevent or even suppress extreme and radical forms of nationalism and racism in Europe.

The idea of the founding fathers of the European Coal and Steel Community was to make war unaffordable. If one could make a common market in such a fashion that it would bring more profit to all the participants than an actual invasion of lands that one did not

posses. In other words it was better to share then steal and rob. This was, however, only the economical basis for further integration. The first step into an European federation¹.

The integration process was slow but effective. The economical union developed and is still developing. It expanded its prerogatives with each new treaty. The cooperation continued on various fields that included the creation of common atomic power policy, a political union and even a monetary union. After signing the Single European Act in 1986 and founding of the European Union shortly thereafter it was clear that United Europe needed a common, legal act to cover the area of basic acts and freedoms. It was another step deeper into the unification process.

And thus begins the story of the Charter of Fundamental Rights of the European Union. No political structure can exist without a core legal act that expresses the basic values serving as the backbone of this very structure. One can argue that Great Britain does not have such an act, but it is only half true. It does not have a constitution in a formal sense but it has it in a material sense. It is not a single, written act but it is rather embodied in court judgments, parliament passed laws and treaties. Showing this example here is important because that is exactly how the European Communities functioned over decades in terms of human rights².

Throughout the years the institutions of the European Communities became more and more democratic. The first (democratic) elections to the European Parliament were held in 1979. With the creation of the European Union the political character of the European institutions was obvious. During a meeting in Cologne the European Council stated that: “the defense of fundamental rights is a core rule of the European Union and an indispensable condition of its legitimacy³”. With these words an intent of founding an European

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The best place to look for the ideas of the founding fathers of the EU is a short book written by one of them:

R. Schuman, *Dla Europy*, Kraków 2003.

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The European Court of Justice provided many regulations concerning the basic rights applications.

The two most common cases mentioned are: Case 228/69, Internationale Handelsgesellschaft mbH v. Einfuhr und Vorratsstelle für Getreide und Futtermittel. Case 29-69, Erich Stauder v. City of Ulm - Sozialamt. - Reference for a preliminary ruling: Verwaltungsgericht Stuttgart.

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Conclusion of the European Councils in Cologne (3 and 4 June 1999) Annex IV. European Council Decision on the Drawing up of a Charter of Fundamental Rights of the European Union.

Constitution was expressed. This was a change to previous arrangements. The Treaties of Rome did not mention anything about human rights. Such was the cost of integration, to do it step by step. As history has showed even the year 1999, about fifty years later since the beginning of the European integration it was still too early to conceive a project of an European constitution. In 2005 France, the country that started the unification process rejected the draft of the constitution in a national referendum. Clearly the European society was not ready to accept a legal act of that gravity.

The text of the constitution was then rearranged and softened. Divided into two parts: the so called Lisbon Treaty and the Charter of Fundamental Rights was passed in 2007 and came into force in December of 2009. It may sound easy but passing of the new treaty was a result of long negotiations and compromises that include three countries bailing out from the use of the Charter. Concerning the way the Charter was created and the political turmoil surrounding it, it is important to ask the questions: what is the exact legal force of this act. It is important to analyze exactly what can it exactly do and what it can not.

3. The Charter

One can ask the question. Why the European Union needed to pass a legal act concerning the fundamental rights when there was already one existing? Everyone knew the fact that the European Convention of Human Rights was signed as early as in 1950. This act was however prepared by the Council of Europe and not by any European Community. It could not be a legal basis for United Europe because of legal problems. The Convention of Human Rights violated the treaties and thus prevented it from becoming an act of legal force used in European Communities. To get more specific the European Court of Justice ruled out the use of this legal act and highlighted that it cannot use it as a legal basis⁴. Having in mind that the already existing European Court of Human Rights had the prerogatives to use the convention it was unnecessary for another legal institution to cover the same area of law. The European Court of Justice simply had no competences to use this legal act.

Knowing all this it may seem that the European Union did not have sufficient legal means to protect human rights. The system was complex and unclear, being constructed only

on court precedents. Furthermore the constitutional courts of the member states were not really cooperative. Both the Italian and German courts were questioning the supremacy of the EU law over the national regulations, solely on the basis of lack of fundamental rights. The German case was the famous *Solange I Beschluss*⁵ (followed then by the *Solange II*⁶) The word *solange* means: as long as. The meaning behind this was that as long as the national law protects the laws of the citizens better than the European law it will have the precedence and priority. One cannot blame the national courts for their decisions for at the time the level of defending basic human rights was really inadequate to the level of European integration. It was clear that the European Communities and later the European Union needed their own legal act concerning fundamental rights.

The reasons of passing such an act were not only caused by the unclear legal situation. It was also needed as a political action to reaffirm and strengthen the unification process. As we know the first project that included the Charter – the European Constitution was not greeted with enthusiasm among the societies of member states. The reason against it was that it would breed a vast amount of unnecessary bureaucracy⁷.

The fierce negative reaction should not have been a surprise. Even the legal way of announcing the creation of the Charter of Fundamental Rights of the EU was somewhat inept. It has been proclaimed⁸ and then acclimated by all the necessary institutions. In that way the Charter would not go through a regular legislation process. In that way the EU institutions made a message that even then the case of human rights was inferior to economical integration. The only hope that the Charter would come to legal force was to attach it as an integral part of one of the next treaties. With the failure of the constitutional project it was apparent that it was the only way. A couple of years later the Charter of Fundamental Rights was attached to the Lisbon Treaty. Proclamation per se does not create any legal norms and does not bind any of the EU institutions or any of the member states. Even the Charter itself

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The whole text of this court decision can be read here:
<http://www.servat.unibe.ch/dfr/bv037271.html>.

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And again the text can be read: <http://www.servat.unibe.ch/dfr/bv073339.html>.

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J. Menkes, *Karta praw podstawowych UE a konstytucja Europy*, p.35, [w:] „Studia Europejskie” nr 2/2001.

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Conférence de presse de Monsieur Jacques Chirac, Président de la République (14.10.2000):
http://www.elysee.fr/disc/disc_.htm

states that it does not amend, change or create any new legal quality. As such this was a perfect political compromise. On the one hand the Charter came to power with the Lisbon Treaty but the procedure was not so clear. With the incredibly strong anti-EU re-sentiments in the UK and countries with eurosceptic leaders (like Poland and the Czech Republic) at the time could block the Charter and the whole Lisbon treaty⁹.

4. The implementation and the binding force of the Charter

As stated before proclamation is not a proper legal process to establish a legal text in the EU. So the charter came to force only attached a treaty. The legal force and the prestige of the Charter comes should be the same as of the Treaties both founding and changing the European Union. Despite it would seem that its meaning is only symbolic. Even the charter itself puts a limitation of its use. As stated in article 51:

“1. The provisions of this Charter are addressed to the institutions and bodies of the Union with due regard for the principle of subsidiarity and to the Member States only when they are implementing Union law. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers

2.This Charter does not establish any new power or task for the Community or the Union, or modify powers and tasks defined by the Treaties¹⁰”.

In this article the whole scope of the possible use of the Charter of Fundamental Rights is enclosed. The message is clear, the Charter is supposed to cover the area of EU law and institutions. By bodies and agencies one has to understand all the EU institutions that came to life thanks to the Rome, Maastricht and Lisbon Treaties. This means also all the secondary institutions that were formed to aid the basic ones by secondary legislation¹¹.

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Even now during the talks about the economical crisis in the Eurozone the British Prime Minsiter remains negative about the fiscal integraton.

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The full text of the charter is a public domain and can be found on the webpage of the European Parliament: http://www.europarl.europa.eu/charter/pdf/04473_en.pdf (along with the commentaries).

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Tamže, commentary to article 51.

The second recipient of the Charter are the Member States. It can be totally vexing considering the fact that all the Member States of the European Union do protect human rights by their constitutions and national legislation. In that case those rights would be double protected and overlapping. If so the procedures and prerogatives of both national and EU justice institutions would get incredibly complicated.

To prevent legal chaos the Charter restricts itself only to certain cases. Concerning the legal tradition of the EU¹² the outcome is clear; the Charter can be only used when the violation of human rights takes place when the Member States act in the range of the EU law. This, of course, takes place also when the Member State implements the EU law. The difference between the two legal ways is that in the first case the law is used by all or some of the member states because the treaties or the regulations of the European parliament or the European Commission in a direct way. In the second case the EU institutions leave the regulation to be implemented to the legal system of each county regarding their own legal tradition. At the first glance it might look that the Charter cannot be used in the second case because it is regulated only by the institutions of the Member States. It is however not so. This legislative way is considered valid by the EU legal system. Even the European Court of Justice had to stress out that even in the case of implementation of European legal norms it the Charter has its binding force. As stated: “In addition, it should be remembered that the requirements flowing from the protection of fundamental rights in the Community legal order are also binding on Member States when they implement Community rules”.¹³ This judgment also can be interpreted using the extensive interpretation. This means that all the articles in the Charter are applied not only to national institutions of the Member States but also to regional governments, third party institutions and NGOs but only when they would implement a EU regulation.

While the first paragraph of article 51 states the range of use of the Charter the second one writes about the limitations. First of all it emphasizes the utter and basic rule of all European legislation: the subsidiarity. It means that a governmental body of a higher level cannot interfere into the actions of a governmental body of a lower level if the body of the lower level can deal with a certain problem or legal issue on it's own. It also means that the

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Judgments by the European Justice Court: judgment 13 July 1989, Case 5/88 Wachauf [1989] ECR 2609; judgment of 18 June 1991, ERT [1991] ECR I-2925; judgment of 18 December 1997 C-309/96 Annibaldi [1997] ECR I-7493.

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Judgment of 13 April 2000, Case C-292/97, [2000] ECR 2737, paragraph 37 of the grounds.

higher body, in this case the European Union has only those prerogatives that were given to it by a legal act (the Lisbon Treaty, but not the Charter. As stated before the Charter does not create, amend or extend the use of the treaties. “Consequently, an obligation, pursuant to the second sentence of paragraph 1, for the Union's institutions to promote principles laid down in the Charter, may arise only within the limits of these same powers¹⁴”. In that aspect it is only a “just in case” law that can be used only in a limited range of situations that are very specific. Even if the Charter tries to be a basic and universal document it cannot extend its legal force outside of what has already been ruled and established in European legislation. It does not create anything new. All of laws were already existing scattered in court regulations etc. It cannot also be understood as a legal act that has to be implemented into the legal systems of any of the Member States¹⁵. With all its limitations the Charter does actually give a very wide perspective of use for the European Court of Justice in regard to a lot of institutions (listed above), so its legal force cannot be underestimated.

There is yet one another issue that has to be discussed here. The Charter was and is a political compromise. The coming into legal force in 2009 was only possible thanks to long negotiations with eurosceptic countries like the United Kingdom. In this case three countries used the opt-out option thus diminishing the legal force of the Charter. Each one of them has to be described separately. When it comes to the EU integration history there was always a country that was defending its sovereignty as fiercely as a lion. Even before the creation of the Community of Coal and Iron one of its founders, Robert Schuman stated that there is one country that will be always hesitating or negative¹⁶. It is of course the UK. Even now as these words are being written and the financial crisis shakes the eurozone it was the British Prime Minister David Cameron who bashed the new fiscal amendment to the Lisbon treaty. It seems that United Kingdom is really constant when it comes to their European policy. Ten years earlier a different Prime Minister – Tony Blair gave the same reasons to bail UK out of the Charter of Fundamental Rights as Cameron used nowadays. The reasons behind the actions of British Prime Ministers are, at their base economical. Tony Blair argued that the application of the Charter could harm the British economy, suppress the business sector and cause legal

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The commentary to article 51 of the Charter of Fundamental Rights:
http://www.europarl.europa.eu/charter/pdf/04473_en.pdf

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Tamže.

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S. Robert, *Dla Europy... dz.cyt.*

mess in concerning the British common law system. He also argued that no European Institution can stand above the English courts¹⁷.

The Polish and Czech opt-outs were however completely different in causes and nature. The Charter is written in a specific fashion in gender neutral language. This fact spurred an issue that the freedom and the right of marriage could not be interpreted in the traditional way as a bond between a man and a woman but due to the gender neutral language could also mean homosexual marriages. In that case the Charter could force Poland to accept homosexual marriages in their legal system. Because of that Poland asked to be included into the British opt-out protocol. The Czech Republic's issues with the Charter were of historical nature. The Czech president Vaclav Klaus raised the concerns that the Charter could create rights of the Germans that were expelled from the Czech Republic after the end of the Second World War due to the Benes decrees. The Charter could create a legal possibility that the expelled Germans could regain their ownership rights in European courts.

All these three cases led to creating a special protocol to the Lisbon Treaty. The first states that both the domestic courts in Poland and the UK and the EU's courts from finding that "laws, regulations or administrative provisions, practices or action" in the countries to which it applies are inconsistent with the Charter. More importantly the other part of the protocol states that the part of the Charter of Fundamental Rights, which contains economic and social rights, does not in fact create any right that can be referred to in European Courts¹⁸. These three opt-outs are a real blow to the legal strength of the Charter and they in fact prevented it from becoming an universal charter of human rights for the EU. It actually prevents the European Court of Justice and national courts from applying it in United Kingdom and in Poland.

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New sticking points for Blair in draft text. "The Guardian" (London).
<http://www.guardian.co.uk/uk/2003/may/28/politics.eu>, 26 January 2010.

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J. Jirasek, *Applicaton of the Charter of Fundamental Rights of the EU in the United Kingdom and Poland according to the Lisbon Treaty*, page. 5. To be read in:
http://www.law.muni.cz/sborniky/cofola2008/files/pdf/evropa/jirasek_jan.pdf.

5. The guaranties and protected laws

The Charter of Fundamental Rights of the European Union is divided into seven chapters that are preceded by a preamble. The preamble takes notice of the unification process of Europe and the fact that this process is based on common values and traditions. The preamble mentions the basic values of the citizens of the European Union: free movement of persons, services, goods and capital, and the freedom of establishment. It emphasizes the necessity of existence of such a charter to enlist the rights of a person in times of social change and technical development¹⁹. The regulations of the Charter include six basic values: human dignity (articles 1-5), freedom (6-19), equality (20-24), solidarity (25-36), citizen rights (37-44) and justice administration (45-48). What is bewildering is the fact that the Charter does not only mention singular rights but regardless of the legal traditions of European countries it also defends collective rights²⁰. The collective rights are given respectively to: children, employees, citizens of the European Union in their rights to: travel freely in the limits of the EU, freedom of choosing one's occupation, freedom to start a commercial activity, the right to health care in an other Member State of the EU, election rights regarding the EU institutions (the parliament), the right to diplomatic protection, right to the access to documents, the right to address the Ombudsman and the right to petition. Among the "regular" rights that are protected are all of the human rights of the first and second generation. The ideas and values protected were stated in the preamble they also add third generation of human rights (the social and economical ones).

The first chapter is completely devoted to the question of human dignity. And much like in other human rights related documents the dignity is concerned not to be a right but it is the source of all human rights. This also resembles the way it was codified in the Polish Constitution from 1997 where art. 30 also states the same about human dignity.

This is followed by another basic right– the right to life (art.2). It is also strongly connected the EU position on capital punishment. The right to life idiomatically rules out the possibility of death penalty or executions. This corresponds with the European Charter of Human Rights and affirms the basic right. The right of integrity follows. Art. 3 of the Charter

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The commentary to article 51 of the Charter of Fundamental Rights:
http://www.europarl.europa.eu/charter/pdf/04473_en.pdf.

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J. Menkes, *Karta praw podstawowych UE a konstytucja Europy*, p.38, [w:] „Studia Europejskie” 2/2001.

of Fundamental Rights is an answer to the development of technology and corresponds with the ambition stated in the preamble, that the Charter wants to respond to the novelties in social and scientific development. The right of integrity of a person includes as follows:

“In the fields of medicine and biology, the following must be respected in particular:

- the free and informed consent of the person concerned, according to the procedures laid down by law,
- the prohibition of eugenic practices, in particular those aiming at the selection of persons,
- the prohibition on making the human body and its parts as such a source of financial gain,
- the prohibition of the reproductive cloning of human beings²¹”.

This article shows that the Charter is fully aware of the dangers created by technological development nowadays. The article itself corresponds with another right that was stated in the Convention on Human Rights and Biomedicine. The human dignity is also a source of the right to be free of torture and inhuman or degrading treatment as well as the right to be free of slavery, servitude and compulsory labour.

The second chapter is bigger and contains a huge list of protected and guaranteed freedoms. The list opens with the right to liberty and security. The cases when the right of liberty is limited can only take place when one breaks the law. This right also implies the right of a just trial etc. The following two articles (art.7 and art. 8) treat the issue of the right to privacy and family life as well as the right of protection of personal data. The latter right has been interestingly ensured before by two legal acts. It was based on Article 286 of the Treaty establishing the European Community and Directive 95/46/EC of the European Parliament the protection of individuals with regard to the processing as well as on Article 8 of the ECHR and on the Council of Europe Convention of 28 January 1981 for the Protection of Individuals²².

Article 9 protects the right to marry and the right to found a family. Even if the official comments to the Charter state that this article neither imposes nor prohibits the question of

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Article 3 (2) of the Charter of Fundamental Rights of EU.

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The commentary to article 8 of the Charter of Fundamental Rights of the EU can be read on the webpage: http://www.eucharter.org/home.php?page_id=15.

marriage of the people of the same sex and leave this issue to be resolved by parliaments of Member States Poland still chose to use the bail out option.

Articles from 10 to 13 cover the area of freedom of expression. Art. 10 protects the freedom of thought, conscience and religion. This is followed by the freedom of expression and information. The information part secures not only the right to information from governmental institutions but most of all it gives a person the right to have contact with free media. The law to express ones thoughts would not be complete without the freedom of assembly and of association (art. 12). This article has also an European level. It establishes the political parties in the UE parliament as the institution that represents the will of the citizens of the EU. And finally article 13 that guarantees freedom of arts and sciences. The right of freedom of academical research and artistic expression is simply derived from the freedom of though.

Article 14, 15 and 16. cope with the right to education and freedom to choose an occupation and right to engage in work. Article 15 also provides with the rights of the EU citizens that can freely travel in the borders of the EU with the desire to work, exercise the right of establishment and provide services. Article 15 has been derived out of the legislation of the European Court of Justice and is one of the most significant rights concerning the unification of the EU²³. The previous articles are enhanced by article 16 that gives one the freedom to conduct business. The freedoms list is closed with the right to property (with the special case of intellectual property), the right to asylum and protection in case of removal, expulsion or extradition. Those articles have footing both in other human rights protecting documents as well as the judgments of the European Court of Justice.

Chapter Three deals with the issue of equality. Aside of the basic rule that everyone is equal before the law (art.20) the Charter prohibits any discrimination based on any ground such as sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, property, birth, disability, age or sexual orientation. This is followed by the special case of national discrimination because of nationality which specially applies to the EU institutions and their policies (art 21). The European Union binds itself to respect cultural, religious and linguistic diversity (art 22).

Those rules are followed by the basic right of equality between women and men in all areas including work, employment and pay (art.23).

The next two articles protect the rights and dignity of children and the elderly. They are based respectively on the New York Convention on the Rights of the Child and European Social Charter. Also art. 26 concerning the integration of disabled people is based on the European Social Charter.

Chapter four concentrates on solidarity and contains mainly workers and trade unions rights. Among those are: the workers right to information and consultation within the undertaking (art 27), the right of collective bargaining and action (art 28), the right of access to placement services (art. 29), the right to protection in the event of unjustified dismissal (art. 30), the right to fair and just work conditions (art 31), a strict prohibition of child labour and protection of young people at work (art. 32), the right to accommodate family and professional life (with the special case of maternity leave, art 33), the right to social security and social assistance, the right to health care (art 35), the right to access to services of global economic interest, the right of environmental protection (art. 37) and finally the right to consumer protection (art. 38). The majority of those rights are already stated in the aforementioned European Social Charter. The special case of articles 36,37 and 38 that are Lisbon Treaty. They don't create any new rights. It shows the spectrum of principles that need to have priority and need to be respected by the EU and its Member States.

Chapter five concentrates on collective rights of citizens of the EU. Articles 39 and 40 provide the citizens with the right to vote and stand as a candidate at elections to the European parliament and the right to vote and stand as a candidate at municipal elections. Article 40 means that every citizen of the Union has the right to vote and stand as a candidate at municipal elections in the Member State in which he or she resides under the same conditions as nationals of that State²⁴. Then as follows come the right to good administration (art. 41) and its amplification to the right of access to documents (art.42). The Charter also gives the right to contact with the Ombudsman in cases of maladministration (art. 43) and the right to petition the European Parliament (art. 44). It ensures the freedom of movement and residence inside the EU and the protection of the citizens of the EU by consulates and diplomats of a different Member State than the nationality of the citizen. All of those rights were already given by the treaties (in this case the Lisbon Treaty) so mentioning them here has the sole

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The definition of art.40 in the commentaries to the European Charter:
http://www.eucharter.org/home.php?page_id=15.

purpose of giving them a higher rank among the rights of EU citizens. Chapter six is goes back again to the rights that are guaranteed by another legal act. It contains four articles about the rights to right to effective remedy and to a fair trial, the presumption of innocence and the right to defense, principles of legality and proportionality of criminal offenses and penalties with the core rules of law:

- “1. No one shall be held guilty of any criminal offence on account of any act or omission which did not constitute a criminal offence under national law or international law at the time when it was committed. Nor shall a heavier penalty be imposed than that which was applicable at the time the criminal offence was committed. If, subsequent to the commission of a criminal offence, the law provides for a lighter penalty, that penalty shall be applicable.
2. This Article shall not prejudice the trial and punishment of any person for any act or omission which, at the time when it was committed, was criminal according to the general principles recognised by the community of nations.
3. The severity of penalties must not be disproportionate to the criminal offence²⁵”.

The list closes with the right to not to be punished twice for the same trial. Those rules are stated in the European Charter of Human Rights.

The Charter ends with general provisions in chapter seven. Article 51 and 52 were already discussed in this paper. They mention the scope of the charter and the scope of guaranteed rights. The last two articles correspond with the European Charter of Human Rights and prevent unjust interpretations of this legal act.

6. Closing Comments

The goal of this paper was to show the guarantees and the limitations of the European Charter of Human Rights. It seems that all the rights mentioned in it are already protected by other documents, judgments of the European Court of Justice or given in the treaties. In this case the Charter does not create any new legal status. However article 51 and 52 state the purpose of the existence of the Charter. The scope of law and its binding power are limited only to the cases when it comes to the use or implementation of the European law and legal

norms. This is not yet the only reason. The Charter was a political compromise and its effects are limited in UK, Poland and the Czech Republic. Those countries are however encourage to implement the norms of the Charter into their own legal systems (in art. 52). Even with all those limitations it shines as a next step to integration. Finally the fundamental rights are gathered in one document which significance in the integration process still needs more time get properly evaluated and to show its real significance.

STRESZCZENIE

Artykuł traktuje o mocy obowiązującej Europejskiej Karty Praw Podstawowych. Autor analizuje treść Karty oraz przedstawia możliwości jej zastosowania. Przedmiotem analizy jest również skomplikowany system tworzenia europejskiego prawa, którego dzieckiem był polityczny kompromis jaki stanowi Europejska Karta Praw Podstawowych.

SUMMARY

The article covers the issue of the legal power of the Charter of Fundamental Rights of the European Union. The author analyses the content of the Charter and situations in which it can be applied. He also describes the complex world of European legislation that shaped the Charter which was a political compromise.