

privacy will stand as a fundamental right so long as it is defended and valued by society, and it will disappear only if society permits it. Today, we have a reasonable expectation that our privacy is protected even when we go online. Our fundamental right to control how we present ourselves to the outside world and our ability to live our lives without constant scrutiny – these must be seen as vital for both the individual and also for a healthy society as a whole.

References:

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2. *Ibid* at [99].
3. *Autronic AG v Switzerland*, no. 12726/87, § 47, 22 May 1990.
4. *Von Hannover v. Germany (no. 2)* [GC], nos. 40660/08 and 60641/08, § 108, ECHR 2012
5. *Satakunnan MarkkinapörssiOy and SatamediaOy v. Finland* [GC], no. 931/13, § 62, 27 June 2017.
6. *Magyar Helsinki Bizottság v. Hungary* [GC], no. 18030/11, § 156, ECHR 2016
7. See, for example, *Fuchsmann v. Germany*, no. 71233/13, 19 October 2017 and *M.L. and W.W. v. Germany*, nos. 60798/10 and 65599/10, 28 June 2018.
8. *Big Brother Watch and Others v. the United Kingdom* [GC], nos. 58170/13 and 2 others, 13 September 2018).
9. *Muscio v. Italy (dec.)*, no. 31358/03, 13 November 2007.
10. *Bărbulescu v. Romania* [GC], no. 61496/08, ECHR 2017
11. *Benedik v. Slovenia*, no. 62357/14, 24 April 2018.
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13. *Roman Zakharov v. Russia* [GC], no. 47143/06, ECHR 2015

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EU CHARTER OF FUNDAMENTAL RIGHTS: POLITICAL AND LEGAL ASSESSMENT

In the article the EU Charter of Fundamental Rights has been considered and received legal and political assessment in the framework of the European integration processes. Furthermore, it has been proved that the Charter played an important role in the process of the elaboration of standards of the human rights protection and represents a constitutional heritage for the whole European Union.

Key words: *EU Charter of fundamental rights, negative rights, positive rights, European Union, constitutional process.*

Nowadays, we live in globalized world which has run through considerable changes since the breakup of the World War II. Many organizations and unions have emerged since the second half of the XX century, but the most prominent and successful among them remains European Union, which has paved the way to the creation of numerous integration arrangements within different continents. Despite the fact that from the inception the European Union was considered as purely economic body, soon it became clear that integration within certain fields provoke similar processes in the others. One of them was human rights protection, where the EU used a clear cut approach by adopting the European Charter of Fundamental rights (hereinafter – Charter), which was comprised of a broad range of civil, political and social rights.

By the end of the XX century many EU-strong supporters championed the idea of introducing EU Constitution and ‘EU Bill of Rights’ as its integral part. This sounded as a logical step in the integration processes in the light of US experience, where Bill of rights had been adopted alongside constitutional process [4, P. 167]. The Italian Professor G. Federico thinks that the Charter was meant to answer the long standing problem of the uncertain status of fundamental rights protection in the EU but it was also intended to lay the foundations for a more proper constitutional legal order with respect to the one provided for by the original treaties [5, P. 7]. He argues that the central idea is that a democracy is not complete without a sufficiently constitutionalized system of protection of fundamental rights. In addition it should be recalled that constitutions are themselves choices of people and as such hardly ‘undemocratic’ [5, P. 8]. Between 2000 – 2005 there were strong debates regarding the EU Constitution, but Europeans casted their votes against EU Constitution, so after Dutch and French referendums (– змтт) the idea to introduce a EU Constitution was suspended.

Despite the negative outcome of the constitutional process, it was understood that EU needs its own set of rules which would establish certain unified standards of the human rights protection in the light of the perspective enlargement. Worth noting, that after the Soviet Union had collapsed, many European states which became independent immediately decided to strengthen their ties with EU by applying to it. Despite the fact that Charter was adopted in 2000, its legal status remained uncertain until the Treaty of Lisbon entered into force, and the Charter became integral part of the EU primary law according to Art. 6 (1) Treaty on the European Union [1].

The Charter contains what may be called as ‘negative’ rights (rights that call for the state abstention from acting in certain areas like, for example, freedom of expression) and ‘positive’ rights (rights that call for the state action in a given field like social security). Synergy between these set of rights boost the democratic development of the European Union. British Professor G. De Burca thinks that since the European Union was created, the european integration process entered a new and more determinedly political phase of integration that is still very much in evolution. Arguably, it has become ever more important to articulate and prioritise the fundamental rights and

interests of citizens as a response to the ongoing process of economic and political integration [7, P. 18].

Tracing the interdependence between the protection of human rights between the Council of Europe and European Union, American Professor R. Arnold suggests that they are autonomous but interconnected. The European Convention for the human rights and fundamental freedoms being, a product of the Council of Europe` legal activity, is still recognised as a legal source for the European Union and European Court of Justice in particular.

Overall, The Charter being unique still is inspired by a whole range of European project systems, the Convention for the Protection of Human Rights and Fundamental Freedoms, the European Social Charter, and EU law itself [5, P. 3].

The Charter grants not only individual rights, but also political. Among them the most prominent are the opportunity to cast a vote during elections and run to the European Parliament office (Art. 39) or to stand in municipal elections (Art. 40). European people can also rely on diplomatic and consular protection from another member state (Art. 46). Furthermore, European citizens can rely upon and claim good governance (Art. 41).

The Charter applies when EU countries adopt or apply a national law implementing an EU directive or when their authorities apply an EU regulation directly. The Charter does not extend the scope of the EU to matters which are not included in its normal remit. Basically, it satisfies the subsidiarity test and does not extend the competence of the EU institution exercising the Charter.

To sum up, it is worth noting, that European Union Charter can be considered as a serious achievement of the European Union. Its adoption served a good deal in the strengthening coherence and rule of law in the European Union.

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