



# The Protection of Fundamental Rights in the Legal Order of the European Union: With Emphasis on the Institutional Protection of those Rights

*Manfred A. Daus*

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This study was drafted during an eventful and turbulent period in terms of European fundamental rights. After about four decades of gradual development of a fundamental rights doctrine by an increasingly problem-oriented casuistry of the European Court of Justice, the way to a fundamental rights codification at the Community/Union level was paved with the adoption of the Charter of Fundamental Rights of the European Union on 7 December 2000, which today embodies the key substance of the European acquis in the area of fundamental rights. Initially, this Charter was adopted as a mere solemn proclamation, without a direct legally binding effect. A new dimension was opened by the Lisbon Reform Treaty of 13 December 2007 (in force since 1 December 2009), into which the Charter was structurally incorporated by a cross-reference in the Treaty, which declares the Charter to be legally binding and of the same legal value as the Treaty law. On this basis, the second focal point, the institutional protection of fundamental rights, i. e., the system of judicial protection in the legal order of the Community/Union, is analysed. In conclusion, the theory is represented that the existing system of institutional protection can be adapted with minor adjustments in such a manner that it provides comprehensive and effective remedies for violations of individual fundamental rights. The creation of a specific fundamental rights complaint as a new, additional procedural Instrument with subsidiary character is, therefore, deemed to be unnecessary.

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