

Title and Abstract:

The Application of the Charter of Fundamental Rights of the European Union by Administrative Courts in France and in the Czech Republic: Comparative Analysis

This thesis contributes to filling the gap in empirical research on the application of the EU Charter of Fundamental Rights by ordinary national courts, choosing Czech and French administrative courts as its focus. It builds on and goes beyond the existing literature by developing a coherent narrative centred around three key themes in the decision-making of Czech and French administrative courts: the Charter's applicability, its role in the reasoning and its interactions with other legal rules, such as EU secondary legislation, the ECHR and national constitutions. The primary aim is to gather data on when and how these courts give effect to the Charter in their decision-making and to evaluate this data from the three perspectives mentioned. The evaluation is made from two complementary angles. First, and unsurprisingly, it will concern itself with the extent to which national courts comply with the obligations imposed on them by the Charter and EU law. Secondly, and more originally, it will identify patterns in the Charter's treatment by national courts and offer explanations for such patterns. More specifically, it will propose a typology of the Charter's legal effects and of its interactions with other legal sources. By contextualising the empirical data in this way, the thesis will present a comprehensive picture of the Charter's treatment by Czech and French administrative courts. The Charter-based case law of these courts is more diverse than the existing empirical studies would suggest. Practicality and pragmatism are some of the unifying factors, but so is the pursuit of material compliance with fundamental rights, including the Charter. The thesis will also demonstrate that EU regulations and directives that contain fundamental rights guarantees severely reduce the Charter's potential to bring added value to the reasoning. It is in fact often possible to reach Charter-compliant solutions by the sole application of EU secondary law, without citing the Charter. Nevertheless, this also means that the reach of EU fundamental rights on the national level is greater than it would appear from the corpus of decisions containing a Charter reference.

Keywords: European Law, Charter of Fundamental Rights of the European Union, Scope of Application of the Charter, Legal Effects of the Charter, Administrative Law (European Law), European Law and National Law, Administrative Law -- France -- Case Law, Administrative Law -- Czech Republic -- Case Law, Public Law (European Law) -- Case Law, National Judge and the Charter, Types of Charter-based Reasoning, Judicial Pragmatism