

# SUMMARY SHEETS : ARTICLE 4 ECHFR

*"Prohibition of torture and inhuman or degrading treatment or punishment*

*No one shall be subjected to torture or to inhuman or degrading treatment or punishment."*

## Content and scope of the article

Article 4 of the Charter of Fundamental Rights of the European Union establishes an absolute and non-derogable prohibition of torture and inhuman or degrading treatment or punishment. This prohibition applies in all circumstances, and it is one of the few rights in the Charter that allows no exceptions or limitations.

Although its wording is identical to Article 3 of the European Convention on Human Rights (ECHR), Article 4 has specific legal effects within EU law. As a source of EU primary law, it is directly binding on both EU institutions and Member States when acting within the scope of EU law. The Court of Justice of the European Union (CJEU) is responsible for interpreting Article 4 and has linked it closely with Article 1 of the Charter (Human Dignity), reinforcing its status as a core principle of the EU legal order (e.g. *C.K. and Others v Slovenia*, C-578/16 PPU).

This right plays a central role in EU policies such as asylum, migration, judicial cooperation, and external relations, where it operates as a non-negotiable standard.

## Why Refer to ECtHR Case Law When Applying the Charter?

Under **Article 52(3)** of the Charter, where rights correspond to those protected by the ECHR, their meaning and scope must be interpreted consistently with the Convention. For Article 4, this means the jurisprudence of the European Court of Human Rights (ECtHR) must inform its interpretation within the EU legal context.

The ECtHR has developed detailed criteria for distinguishing between:

- **Torture:** intentional acts causing very severe physical or mental suffering, typically with a specific purpose (e.g. punishment, coercion);
- **Inhuman treatment:** causing serious harm but without the same intensity or intent as torture;
- **Degrading treatment:** actions that humiliate or debase the victim.

These categories are further clarified through landmark cases such as *Ireland v United Kingdom*, *Jalloh v Germany*, and *Mubilanzila Myeka v Belgium*. The ECtHR also considers factors such as the victim's age, health, and vulnerability, and has recognised that severe psychological suffering alone can amount to inhuman treatment.

For EU practitioners, ECtHR case law is useful because it:

- **Clarifies the definitions** and thresholds of the types of prohibited conduct under Article 4,
- Ensures harmonisation of human rights protection across Europe,
- Helps assess real risks in practical contexts such as detention, deportation, asylum, or judicial cooperation,

- Provides a **minimum level of protection**, which the Charter must at least match—but which EU law can also go beyond, depending on the context

## CJEU Case Law

- European Arrest Warrant

**CJEU Judgment, *Pál Aranyosi and Robert Căldăraru v Generalstaatsanwaltschaft Bremen*, Cases C-404/15 and C-659/15 PPU, ECLI:EU:C:2016:198**

*Key words: Reference for a preliminary ruling — Police and judicial cooperation in criminal matters — Framework Decision 2002/584/JHA — European arrest warrant — Grounds for refusal to execute — Charter of Fundamental Rights of the European Union — Article 4 — Prohibition of inhuman or degrading treatment — Conditions of detention in the issuing Member State*

**CJEU Judgement, *E.D.L.*, C-699/21, ECLI:EU:C:2023:295.**

*Key words: Duty of sincere cooperation — Postponement of the execution of the European arrest warrant— Serious, chronic and potentially irreversible illness — Risk of serious harm to health affecting the person concerned by the European arrest warrant.*

**CJEU Judgment, *ML*, Case C-220/18 PPU, ECLI:EU:C:2018:589.**

*Key words: Grounds for non-execution — Detention conditions in the issuing Member State — Scope of the assessment undertaken by the executing judicial authorities — Existence of a legal remedy in the issuing Member State — Assurance given by the authorities of that Member State.*

- Migration and Asylum

**CJEU Judgment, *X., Y. and Z. v Minister voor Immigratie en Asiel*, Joined Cases C 199/12 to C 201/12, ECLI:EU:C:2013:720**

*Key words: Directive 2004/83/EC — Minimum standards relating to the conditions for granting refugee status or subsidiary protection status — Membership of a particular social group — Sexual orientation — Reason for persecution — Concept of ‘persecution’ — Well-founded fear of being persecuted on account of membership of a particular social group — Acts sufficiently serious to justify such a fear — Legislation criminalising homosexual acts — Individual assessment of the facts and circumstances*

**CJEU Judgment, *MP v Secretary of State for the Home Department*, Case C-353/16, ECLI:EU:C:2018:276.**

*Key words: Directive 2004/83/EC — Eligibility for subsidiary protection — Risk of serious harm to the psychological health of the applicant if returned to the country of origin — Person who has been tortured in the country of origin.*

**CJEU Judgement, *C.K. and Others v. Republika Slovenija*, C-578, ECLI:EU:C:2017:127.**

*Key words: Dublin system — Transfer of a seriously ill asylum seeker to the State responsible for examining his application — No substantial grounds for believing that there are proven systemic flaws in that Member State — Obligations imposed on the Member State having to carry out the transfer.*

CJEU Judgement, *Milkiyas Addis v Bundesrepublik Deutschland*, Case C-515/2017, ECLI:EU:C:2020:579

*Key words: Common procedures for granting and withdrawing international protection — Directive 2013/32/EU — Obligation to give applicants for international protection the opportunity of a personal interview before the adoption of a decision declaring the application to be inadmissible — Failure to comply with that obligation in the procedure at first instance — Consequences.*

- Others

CJEU Judgement, *UD v XB*, Case C-393/18 PPU, ECLI:EU:C:2018:835.

*Key words: Judicial cooperation in civil matters — Regulation (EC) No 2201/2003 — Jurisdiction in matters of parental responsibility — Concept of ‘habitual residence of the child’ — Requirement of physical presence — Detention of the mother and child in a third country against the will of the mother — Infringement of the fundamental rights of the mother and child.*

CJEU Order, *Nexans France and Nexans v European Commission*, Cases C-65/18 P(R) and C-65/18 P(R)-P, ECLI:EU:C:2018:426.

*Key words: Application for interim measures — Competition — European market for power cables — Decision of the European Commission finding an infringement of Article 101 TFEU — Publication — Partial rejection of the request for confidential treatment of certain information appearing in the decision — Suspension of operation of a measure — Connection between the condition of a prima facie case and that of urgency.*

## Highlights

Article 4 of the Charter must be interpreted in conjunction with the other articles in the Chapter dedicated to dignity, including the right to life (Art. 2), the right to integrity (Art. 3) and the prohibition of slavery (Art. 5). As a starting point, it should be remembered that the CJEU has recognised human dignity as a general principle of law. Furthermore, all the rights contained in the first Chapter of the Charter are rooted in the inviolability of human dignity.

The relationship between Article 4 and Article 5 is particularly evident in cases of human trafficking, as certain instances of human trafficking may result in torture, inhuman or degrading treatment if the State fails to act with due diligence in protecting the victims.

## Correspondence with other European/International instruments

- European Convention on Human Rights, Article 3
- Universal Declaration of Human Rights. A/RES/217(III) of 10 December 1948, Article 5
- International Covenant on Civil and Political Rights. A/RES/2200(XXI), of 16 December 1996, Article 7

- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. A/RES/39/46, of 10 December 1984.
- European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment. ETS no. 126, of 26 November 1987.

#### Further readings

- Manfred Nowak and Anne Charbord; “Article 4, Prohibition of torture and Inhuman or Degrading Treatment or Punishment”, in Steve Peers, Tamara Hervey, Jeff Kenner and Angela Ward (eds.), *The EU Charter of Fundamental Rights*, Hart, 2014, pp. 61-100.
- René Santamaría Arinas and María del Carmen Bolaño Piñeiro, “Artículo 3. Prohibición de la tortura”, in Lasagabaster Herarte, Iñaki (Ed.), *Convenio Europeo de Derechos Humanos. Comentario sistemático*. Civitas, Thomson Reuters. 2021, pp. 58-102.
- Mirentxu Jordana and Georgina Rodríguez Muñoz; “The prohibition of torture and inhuman or degrading treatment”, in Jordana, Mirentxu (Ed.), *Respect for Human Rights in Spain. A critical analysis from an international law perspective*, Generalitat de Catalunya, 2023, pp. 121-158.