Collective labour rights versus economic freedoms in EU legal order: the European Court of Justice and the EU Charter of fundamental rights

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Abstract

This paper examines the collisions between economic freedoms and trade union rights in EU legal order. After setting the political-legal context of such collisions, the study focuses on their judicial treatment, as it has been expressed in the rulings of the European Court of Justice (ECJ) in *Laval* and *Viking* cases. In this regard, I will first summarize the wider consequences of the judgments, elucidating on their impact on collective labour rights. In the next part, I will approach the issue in the light of the EU Charter of fundamental rights. At that point the question arises as to whether now that the Charter has acquired the same legal value as the Treaties (article 6 (1) TEU), should the ECJ be expected to address differently the relevant conflicts. In an attempt to answer this question, I shall focus on the reasoning developed by the Court in *Laval* and *Viking* judgments, which had been delivered before the Charter’s acquisition of a binding status. The short analysis shall reveal that the internal logic of the judicial syllogism is based on a presumption which the Charter cannot affect, despite its legal status. What is more, it will be argued that the horizontal provisions of the Charter do not give ground for a shift in the Court’s approach to the collisions between economic freedoms and collective labour rights.

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