Who's afraid of the Charter? The Court of Justice, national courts and the new framework of fundamental rights protection in Europe


Abstract

The Charter of Fundamental Rights of the European Union has forced the European Court of Justice and its national counterparts to face a series of difficult and principled questions: Who is the ultimate interpreter of fundamental rights in Europe? Which standard of protection is to be given priority? How does the Charter bind Member States when applying EU Law? This article argues that the first seminal decisions of the European Court of Justice on the matter, in particular the judgments in AkerbergFransson and Melloni, have set the ground for a new framework of fundamental rights protection in the European Union. However, this framework does not depend on the sole authority of the Luxembourg court, but on a complex system of checks and balances that will demand complicity and commitment on the part of national supreme and constitutional courts.