

Productions d'élèves dossier pédagogique



Does a European standard for liberties exist?

Evoking a European standard for liberties amounts to examining the existence and development of legal norms applicable to all states members of the European Council.

This international organization, which has a continental scope, includes 47 European states and has the responsibility to protect human rights. The previously mentioned European standard essentially has its origin in the European Convention for the protection of human rights signed by member states of the Council on November 4, 1950. This convention is applied by the European Court of Human Rights, whose decisions are imposed on the member states. This everchanging text should be interpreted following societal evolution since the Court is constantly defining new rules unmentioned in the original text. For instance, this ability can be seen through the new rights concerning surrogate children.

The role played by the European Council for the European standard of liberties did not spark opposition from the European Union. Indeed, its initial role was to promote liberties, the only right guaranteed by the European Union being the free movement of people and goods established by the treaty of Rome in 1957. The Charter of Fundamental Rights of the European Union, the first text to develop a global conception of liberties inside the EU, was only adopted in 2002. This text has a limited scope as it does not bind all the states, such as Poland and the UK, having negotiated a derogatory system. Moreover, the EU built its standards by using the one of the European Council as a foundation. Additionally, social rights are rather insignificant given that the EU's primary interest is in the economy. For these reasons, the membership procedure of the Union to the Charter of Fundamental Rights has not resulted in anything.

Despite the desire to unite Europe, the standard of European liberties is facing two types of oppositions: First, an internal opposition to the European Court. The most obvious one is from the UK; indeed, despite its adhesion to the European Convention, it wishes to distance itself from the texts. This opposition is translated by a change of the Human Rights Act of 1988 and wanting to practice a right independent from the decisions of the European Court of Human Rights in order to re-establish Westminster's sovereignty. This desire is notably illustrated by the conflict between the European Council and the UK on the carceral right. The European Council punishes the States which take away the right to vote for prisoners whereas the UK thinks such measures intrusive to country's sovereignty. However the British opposition is far from being isolated and finds a favourable feedback from many other countries including France, in particular at the heart of euro septic movements.

A more discrete but more powerful exterior opposition also exists that supports the British effort. The United States tries to prevent the emergence of a European standard of liberties. Indeed, in many fields, the American norms are less demanding than the European ones. For example, in the United States, private information flows freely, often for the commercial use allowing the establishment of consumer profiles.

However, in Europe, thanks to different laws or international conventions, one's privacy is much more secure. Recently, Google who has not been respecting the right to be forgotten, that is to say the removal of intrusive data regarding one's private life, was imposed on by the European Court of Justice, the application of the European right of data protection.

Therefore, a European standard of liberties is emerging. This continental right of liberties is used as a means of unifying Europe around common principals. The results are conclusive, knowing that certain states of the European Council have recently become rules of law. However, and this may be the most important factor, this European standard allows to oppose the American superpower through law.

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