



# The Withdrawal Bill

Department  
for Exiting the  
European Union

Factsheet 6: Charter of  
Fundamental rights

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## The Charter of Fundamental Rights

- The Charter of Fundamental Rights of the EU (the Charter) brought together in a single document the fundamental rights protected in EU law. It reaffirmed the rights and principles that already existed in EU law.
- The Charter was given legal effect by the Lisbon Treaty on its entry into force in December 2009. Article 6(1) Treaty on European Union (TEU) provides for the Charter to have the same legal status as the EU Treaties.
- The Charter applies to EU institutions all the time, but only applies to a member state when it is acting within the scope of EU law.
- It is comprised of rights which already existed in EU law and were drawn from many sources including the constitutional traditions and international obligations common to the member states and the European Convention on Human Rights (ECHR). Many of these rights are provided for in domestic law under the Human Rights Act 1998.
- Some Charter articles contain principles rather than rights, and others contain both. Article 52(5) states that principles 'may be implemented by legislative and executive acts' taken by the EU institutions and member states when implementing EU law, and are 'judicially cognisable only in the interpretation of such acts and in ruling on their legality'. So the Charter makes clear that principles are not capable of having the same effects as rights.

## Why is the Charter not being converted into domestic law?

- The UK has a longstanding tradition of ensuring our rights and liberties are protected domestically and of fulfilling our international human rights obligations. The decision to leave the EU does not change this.
- The Charter did not create any new rights. Instead it was intended to reaffirm the rights that already existed in EU law, including case law of the CJEU.
- The substantive law and the principles which underpin the Charter will be converted into domestic law. As such, they will continue to be enshrined in UK domestic law, through domestic legislation, the common law or retained EU law.
- The Government's intention is that, in itself, not incorporating the Charter into domestic law should not affect the substantive rights that individuals already benefit from in the UK, as the Charter was never the source of those rights. For the purposes of clarifying this position, the Government published the '[Charter of Fundamental Rights of the EU Right by Right Analysis](#)' in December 2017 which sets out, non-exhaustively, how the Government considers that fundamental rights that are currently protected by EU law will be protected after exit from the EU.
- The Charter of Fundamental Rights is only one element of the UK's human rights architecture. The Bill makes no changes to the UK's obligations under the ECHR, nor under the Human Rights Act 1998 that gives effect to the ECHR. This Government has been clear that it has no plans to withdraw from the ECHR. Individuals will still be able to bring a claim under the Human Rights Act 1998 as they can now.
- It is the Government's position that it cannot be right that the Charter of Fundamental Rights of the EU could be used in its own right, post-exit, to bring challenges against the UK Government to strike down UK legislation after the UK's withdrawal from the EU.