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Human Rights in the EU and Their Impact on Labour Law

Traditionally, fundamental human rights occupy a huge place in the field of labour law. The ILO constitution of 1919 focusses on the right of freedom of association. Subsequent ILO documents stress other fundamental rights such as the right to non-discrimination in the field of labour. Also in the EU the fundamental rights of the worker have got some attention, especially in non-binding documents such as the Community Charter of the rights of the worker from 1989. Since the entry into force of the Treaty of Lisbon we have a binding Charter of Fundamental Rights including rights in the field of labour law, headed for the most part under the heading 'solidarity'.

In this paper two basic and fundamental questions will be treated. The first question will focus on the potential clash between fundamental (labour) rights and the 'fundamental' four economic freedoms of the EU. Since the seminal cases of *Viking* and *Laval* a lot has been written about this theme by European and labour lawyers. I will not redo the literature that has been written about these cases, but the more theoretical point of a (potential) clash between the four economic freedoms and the fundamental rights is still in need of clarification. Are fundamental human rights going to take in a more important place in relation to the four economic freedoms, now that the Charter of Fundamental Rights is of binding character or will there be just a continuation of the already developed relations between the two categories of rights?

Second, all cases of the ECJ in the field of labour law, since the entry into force of the Lisbon Treaty in which the Charter has been mentioned explicitly will be analysed briefly. What is the nature of the test by the ECJ? Is it different from earlier case-law (for example *BECTU*) in which the ECJ tested earlier documents such as the European Social Charter and/or the above mentioned Charter of 1989?