

Training Report

Activating the EU Charter in Strategic Litigation

STRATEGIC LITIGATION

EU CHARTER

OLDER PERSONS' RIGHTS

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The EU Charter of Fundamental Rights

- The Charter consolidates civil, political, economic and social rights across the EU and became legally binding with the Treaty of Lisbon in 2009.
- The Charter applies when Member States act within the scope of EU law. National courts enforce rights while the Court of Justice of the European Union ensures consistent interpretation.



StratAGEic Insight:

Article 25 on the rights of older persons remains largely unexplored in the case law of the Court of Justice of the European Union, creating opportunities for strategic litigation.

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The Mangold Case: Relevance and Lessons Learned

- Mangold challenged the German legislation allowing fixed-term contracts without justification for workers over 52.
- The case was deliberately constructed to challenge age discrimination in employment and was designed before the Employment Equality Directive (2000/27/EC) was fully effective and before the Charter became primary EU law.



StratAGEic Insight:

This decision illustrates how a single case can transform legal practice across an entire legal system and that deliberately constructed cases can be used in strategic litigation.

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Charter-Based Litigation

- Three key steps: 1) identify issues, 2) establish the EU-law link, and 3) choose the most suitable national legal procedure.
- Cases related to older persons before the Court of Justice of the European Union have often concerned pensions and administrative matters.
- Want to use the Charter for strategic litigation? Consider on average 15 months for decision and potentially fewer budgetary constraints compared to other litigation routes.



StratAGEic Insight:

Benefits include visibility, enforcement by the European Commission and relatively strong impact potential.



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