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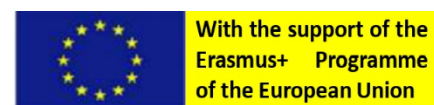
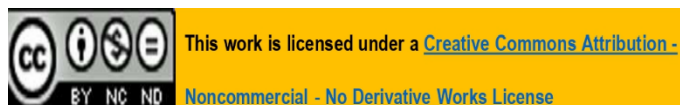
## **Article 2 of the Charter of Fundamental Rights of the European Union on the Right to Life**

In this paper, I discuss the right to life as regulated in the Charter of Fundamental Rights of the European Union.

First, it is important to understand what is the right to life. Article 2 of the Charter of Fundamental Rights of the European Union states:

*‘Everyone has the right to life. 2. No one shall be condemned to the death penalty or executed’.*

As general considerations, we must underline two essential elements. The first, that the right to life is an inalienable attribute of the human condition; and the second, that the rest of HR and fundamental freedoms cannot be understood without the right to life.



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I will focus on the reference to Article 2 of the ECHR on the right to life, and Article 52.3 of the CFREU, which indicates that insofar as this charter contains rights which correspond to rights guaranteed by the European Convention for the Protection of Human Rights and Fundamental Freedoms, their meaning and scope shall be the same as those conferred by the convention.

This provision does not preclude Union law from granting more extensive protection. In addition, we will focus on the right to life and the abolition of the death penalty, and finally on the jurisprudential debate on the right to life ‘from conception’.

As I have indicated, the European Convention on Human Rights also regulates the right to life in its second article and states that:

***‘1. Everyone's right to life is protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following a conviction by a sentence of death for a crime for which this penalty is provided by law.***

*2. Death shall not be regarded as inflicted in contravention of this article when it results from the use of force which is absolutely necessary:*

- a) in defence of a person against an unlawful attack;*
- b) to arrest a person lawfully or to prevent the escape of a prisoner or person lawfully detained;*
- c) to suppress, in accordance with the law, a revolt or insurrection’.*

As we can see, the content of the right to life in the convention and in the Charter has a series of nuances that should be described. The wording of Article 2 of the CFREU does not admit the exception of the death penalty, although the Convention does (but this circumstance is because the EU member states are parties to Protocol No. 6 of the ECHR, which expressly abolishes the death penalty).

There is an absence of restrictive or negative definitions of the right to life in the CFREU, but because of the aforementioned Article 52(3) of the CFREU, the latter refers to the text of the convention.

Another important issue surrounding the right to life and the abolition of the death penalty is the intertwining of this right with the principle of non-refoulement. Article 19(2) of the CFREU states that:

*'No one shall be removed, expelled, or extradited to a state where there is a serious risk that he or she would be subjected to the death penalty, torture, or other inhuman or degrading treatment or punishment'.*

If the applicant does not qualify for international protection and refugee status, the member state receiving the applicant for international protection may grant subsidiary protection.

However, the existence of exceptions to the principle of non-refoulement may arise from the signing of other treaties such as the Extradition Agreement between **the European Union and the United States of America**.

Furthermore, the European Union is concerned about the existence of the death penalty, how it is used, and the frequency with which it is used in all countries of the world. Monitoring these issues has become one of the objectives of the EU's External Action Service, which, on 29 April 2022, expressed

**its revulsion at the adoption of an amendment to the Criminal Code by the Belarusian National Assembly that introduced the death penalty for attempted acts of terrorism.**

The right to life has been the subject of extensive jurisprudential development, although the recent CJEU of 19 December 2019 in Puppink and others v. European Commission, Poland, and other defendants, marked a debate in reference to the right to life from conception or embryonic moment, as well as the funding associated with R&D activities and the request for the exclusion of financial aid from the union to fund abortion in development cooperation programmes.

In this case, the Grand Chamber agreed with the defendants and dismissed the appeal.