

HUMAN DIGNITY IN THE SLOVAK CONSTITUTION AND THE CFREU: POTENTIAL AND LIMITS OF INTERACTION

ĽUDSKÁ DÔSTOJNOSŤ V SLOVENSKEJ ÚSTAVE A CFREU: POTENCIÁL A LIMITY INTERAKCIE

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<https://doi.org/10.33542/SIC2026-2-05>

ABSTRACT

The aim of this article is to assess the potential impact of the EU Charter of Fundamental Rights on the position of human dignity within the Constitution of the Slovak Republic. While it is indisputable that human dignity and its protection have a place in the Slovak Constitution, the wording of the provisions related to human dignity is ambiguous, and it is unclear which fundamental rights are connected to the value of human dignity. At the same time, it is common today to regard human dignity as the source of many fundamental rights. This situation is further complicated by the fact that human dignity also appears in the Constitution as an independent fundamental right, without any closer specification of its content. The author concludes that interpreting human dignity through the EU Charter of Fundamental Rights could significantly strengthen its constitutional status by the fact that certain fundamental rights in the Charter are directly linked to the value of human dignity, thereby conferring upon them an absolute character. The protection of human dignity in the Slovak Republic could therefore be understood as the result of the cooperation of three legal systems, and the absence of the Charter could substantially weaken this protection.

ABSTRAKT

Cieľom tohto článku je zhodnotiť potenciálny vplyv Charty základných práv EÚ na postavenie ľudskej dôstojnosti v Ústave SR. Zatiaľ čo je nespochybniteľné, že ľudská dôstojnosť a jej ochrana majú svoje miesto v Ústave SR, samotné znenie článkov, ktoré s ľudskou dôstojnosťou súvisia je nejednoznačné a nie je jasné, ktoré ľudské práva sú na hodnotu ľudskej dôstojnosti napojené. Je pritom bežné považovať v súčasnosti ľudskú dôstojnosť za zdroj mnohých ľudských práv. Tento fakt je ďalej skomplikovaný tým, že ľudská dôstojnosť vystupuje v Ústave aj ako samostatné ľudské právo bez bližšej špecifikácie, čo je jeho obsahom. Autor dospieva k záveru, že výklad ľudskej dôstojnosti prostredníctvom Charty základných práv EÚ by mohol výrazne posilniť jej ústavnoprávne postavenie tým, že niektoré ľudské práva sú v Charte priamo prepojené s hodnotou ľudskej dôstojnosti, čím im prepožičiava absolútny charakter. Ochranu ľudskej dôstojnosti v Slovenskej republike preto autor vníma ako výsledok súbežného pôsobenia troch právnych systémov, pričom absencia Charty by túto ochranu mohla výrazne oslabiť.

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I. INTRODUCTION

At present, the position of human dignity within the Constitution of the Slovak Republic is systematically ambiguous. Although there can be no doubt that the Constitution protects this value, the text itself does not express its status or the scope of its protection with enough explicit emphasis. This, however, does not mean that the position of human dignity within the Slovak constitutional order is weak. Constitutional Court of the Slovak Republic has made the position of human dignity in the Slovak Constitution more clear over time and to the extent that the Slovak constitutional framework exhibits normative uncertainty, the protection of human dignity is supplemented by European Union law, most notably through the EU Charter of Fundamental Rights. The purpose and objective of this article is therefore to assess the impact of this document on the constitutional reality of human dignity within the constitutional order of the Slovak Republic. The article focuses exclusively on the constitutional and trans-constitutional analysis of human dignity, rather than on its general position within general Slovak legislation. Some recourse to case law will be made, but it is not within the scope of the article to do a deep dive into how human dignity is being invoked and used in Slovak jurisprudence. More importantly the article contains both descriptive and normative content.

The article is divided into three parts. The first part provides a brief introduction to human dignity and its various forms that appear in constitutions, specifically as a value, a legal principle, and a specific human right. The second part represents the most substantial part of this article and focuses on the analysis of human dignity in the Constitution of the Slovak Republic and in the EU Charter of Fundamental Rights, with a small excursion into the European convention on human rights. The third and final part offers a synthesis of the findings and seeks to elaborate why the protection of human dignity within the EU Charter of Fundamental Rights could be used to strengthen the position of human dignity inside the Slovak constitution. It does so by connecting the insights to the theory of constitutional pluralism and more specifically multilevel constitutionalism. This last part is to be considered normative rather than descriptive, since it merely offers a new way of looking at human dignity, and not a description of how human dignity is, at this point in time, being approached.

II. HUMAN DIGNITY AS THE FOUNDATIONAL VALUE IN LAW

Human dignity emerged as a central legal value in the aftermath of the Second World War, most prominently through its recognition in the Universal Declaration of Human Rights as the “foundation of freedom, justice and peace in the world” and as the highest objective of humanity.² Its intellectual and moral roots, however, reach much further back. Several of its core elements are closely connected to Christian theology and the idea of the equal worth of all human beings before God³, a connection that can also be observed, for example, in the Constitution of Ireland of 1937.⁴ Nevertheless, it was the adoption of the Universal Declaration of Human Rights that marked a decisive shift in the legal significance of human dignity. The atrocities of the Second World War, including the system of concentration and POW camps, elevated human dignity above many other values and received a strengthened position in constitutional texts

² Preamble of the Universal Declaration of Human Rights: „Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,“

³ Catechism of the Catholic Church: Respect for the Human Person (1929 – 1933). [online] [cit. 9. septembra 2026]. Dostupné online: https://www.vatican.va/archive/ENG0015/_P6O.HTM.

⁴ Excerpt from the Preamble of the Constitution of Ireland from 1937: In the Name of the Most Holy Trinity, from Whom is all authority and to Whom, as our final end, all actions both of men and States must be referred, ... so that the dignity and freedom of the individual may be assured, ...

worldwide. Today, human dignity occupies a prominent place in the constitutions of numerous states and has also been enshrined in the EU Charter of Fundamental Rights. It has thus become a core concept of a shared constitutional vocabulary that transcends national boundaries.⁵ It is likewise common to regard human dignity as the source or foundation of many fundamental rights.⁶

Values generally function as moral compasses within society and are inevitably shaped by historical, cultural, and social contexts, characteristics that also carry over into the legal sphere.⁷ This feature unfortunately also explains why values often encounter difficulties when applied in law. Their broad scope and indeterminate content tend to complicate legal application, and their constitutional positioning often varies significantly across legal systems. This phenomenon is particularly true for human dignity. In some constitutions, the value is placed at the very apex of the legal order, as is the case in Germany or, in a different form, in the EU Charter of Fundamental Rights. In other constitutional systems, however, its position is systematically ambiguous and, to a certain extent, structurally weak.

Human dignity is frequently associated with a specific catalogue of fundamental rights that are inherently connected to it, both in national constitutions and in international human rights instruments. It is also closely linked to the principles of democracy. Catherine Dupré, for instance, characterizes human dignity as the objective of constitutional democracy and as a value that enables the continuous elevation of human rights protection standards.⁸ Traditionally, human dignity is associated with two other foundational values of modern constitutionalism, equality and freedom. In continental European legal systems, particularly within the EU, the link to equality tends to prevail, whereas in the Anglo-Saxon legal tradition, most notably in the United States, human dignity is more commonly associated with freedom. Taken together, these observations confirm that human dignity is among the most important values protected by contemporary constitutional law. At the same time, despite its frequent invocation, it remains a concept that is difficult to handle in practice, primarily due to the persistent tension between its absolute and relative dimensions.

This article does not seek to resolve the broader theoretical debate between the absolute and relative character of human dignity. Nevertheless, it is necessary to briefly introduce its absolute dimension, as this aspect plays a crucial role in strengthening the protection of certain fundamental rights connected to human dignity. In legal discourse, describing a value as absolute typically signifies that it is inviolable, unquestionable, and of exceptional importance. Human dignity is often understood in precisely this manner. Article 1 of the German Constitution, for example, declares human dignity to be inviolable, thereby signaling that any interference with it is impermissible. This line represents the absolute dimension of human dignity. Such an understanding has significant implications for constitutional adjudication. Legal argumentation frequently requires the balancing of competing values and rights. Where a value is considered

⁵ PAVLINSKÝ, R. Hodnota ľudskej dôstojnosti ako kolízne pravidlo pri strete právnych systémov. In: KŠENDŽIGHOVÁ, A. (ed.) Sekcia dejín štátu a práva, teória štátu a práva a sekcia medzinárodného práva „Aktuálne otázky hodnôt v kontinentálnom právnom systéme“. Zborník zo VI. ročníka medzinárodnej vedeckej konferencie Banskobystrické zámocké dni práva 14. – 15. november 2023, zámocký hotel The Grand Vígľaš. Banská Bystrica : Belianum, 2025, p. 108. DOI 10.24040/2024.9788055721255.

⁶ BOTHA, H. Human dignity in comparative perspective. In: Stellenbosch Law Review – Stellenbosch Regtydskrif, Vol. 20, no. 2 (2009), p. 171. Dostupné online: <http://hdl.handle.net/10019.1/103998>.

⁷ CALLIESS, CH. Europe as Transnational Law – The Transnationalization of Values by European Law. In: German Law Journal, Vol. 10, Issue 10 (2009), p. 1368. DOI 10.1017/S2071832200018277.

⁸ DUPRÉ, C. Dignity, Democracy, Civilisation. In: Liverpool Law Review, Vol. 33 (2012), pp. 264 – 265. DOI 10.1007/s10991-012-9123-7.

absolute, such balancing becomes highly problematic. In Germany, human dignity, as formulated, would theoretically prevail in every proportionality assessment, an outcome that is neither practically workable nor normatively intended. The difficulty becomes even more pronounced in cases involving a conflict between the dignity of two individuals, as no higher criterion exists by which such a collision could be resolved.⁹

More generally, in constitutional texts, human dignity assumes three fundamental legal forms. It functions not only as a foundational value, but also as a high-ranking legal principle and, in some cases, as a specific human right.¹⁰ Its legal role therefore cannot be inferred solely from its presence in constitutional text, but rather from its position inside of it. Human dignity expressed in a preamble carries a different normative function than dignity embedded within provisions on specific rights. This distinction will serve as a guiding framework for the following analysis of human dignity within the Constitution of the Slovak Republic and the EU Charter of Fundamental Rights.

III. ANALYSIS OF THE POSITION OF THE VALUE OF HUMAN DIGNITY IN THE CONSTITUTION OF THE SLOVAK REPUBLIC

Human dignity is not explicitly mentioned in the preamble to the Constitution of the Slovak Republic. Instead, the preamble refers to the cultural heritage of our ancestors. One might argue that this implicitly includes respect for human dignity, as the concept, although not always articulated in its modern legal sense, has historically been closely linked to religious beliefs, which form an important component of cultural heritage. As we pointed out earlier, it is not unusual to have human dignity appear in the preamble, another example of which can be found in the 1997 Constitution of Poland.¹¹ However, as mentioned previously, this line of reasoning has very limited legal relevance, since constitutional preambles are generally not considered legally binding.

Moving on to the next part of the preamble, we arrive at democratic values. The Slovak Republic is a democratic state and seeks to protect this specific form of government. It could be argued that a system based on the will of the people must necessarily protect human dignity. Yet this argument is also problematic. Historically, human dignity has been invoked in political and legal systems that were not democratic. Moreover, democracy is only loosely connected to values. While values may be realized within a democratic framework, they do not arise automatically from democracy itself. In fact, democratic systems are fully capable of violating human dignity.¹²

Our tendency to associate democracy with human dignity is largely by design rather than lying in democracy itself. It is the material rule of law, not democracy alone, that prioritizes the protection of human dignity and rights or at least creates the conditions under which such protection is possible. Only through the combination of democracy and the material rule of law

⁹ NIDA-RÜMELIN, J. Why Human Dignity rests upon Freedom. In: KIRSTE, S., BRUGGER, W. (eds.) *Human Dignity as a Foundation of Law. Proceedings of the Special Workshop held at the 24th World Congress of the International Association for Philosophy of Law and Social Philosophy in Beijing, 2009*. Stuttgart : Franz Steiner Verlag, 2018, pp. 88 – 90. ISBN 9783515104838.

¹⁰ STEINMANN, R. The Core Meaning of Human Dignity. In: *Potchefstroom Electronic Law Journal*, Vol. 19 (2016), p. 4. DOI 10.17159/1727-3781/2016/v19i0a1244.

¹¹ Excerpt from the Preamble of the Constitution of Poland of 1997: ... We call upon all those who will apply this Constitution for the good of the Third Republic to do so paying respect to the inherent dignity of the person, his or her right to freedom, the obligation of solidarity with others, and respect for these principles as the unshakeable foundation of the Republic of Poland ...

¹² Many human rights violations happened in African countries that were officially democracies: Cameroon (Paul Biya), Uganda (Yoweri Museveni), Equatorial Guinea (Teodoro Obiang Nguema Mbasogo).

can human dignity function as a genuine legal value within a constitutional system. However, being a necessary precondition for the protection of human dignity is not the same as explicitly enshrining human dignity within these concepts.

Not finding human dignity in the preamble, we can now turn to the legally binding text of our constitution itself. Article 1 of the Constitution refers to Slovak republic as a democratic state that adheres to the rule of law. However, just as the general reference to democracy in the preamble, this alone cannot convincingly be interpreted as expressing a constitutional commitment to the protection of human dignity as a foundational value. This is an interesting choice to be sure. Other constitutions do sometimes put the value of human dignity and its protection first, even before the democracy and rule of law. The most famous example of this is Article 1 of German Constitution (*Grundgesetz*): “*Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority.*” This clearly puts human dignity in the forefront of the constitution and makes protection of human dignity to be the biggest concern of the state.

This is not the case of the Constitution of the Slovak republic, where the first explicit reference to human dignity appears in Article 12 of the Constitution. It declares that people are free and equal in their dignity and rights. This is basically a copy paste of Article 1 of the Universal Declaration of Human Rights.¹³ Two aspects of this formulation are noteworthy. First, dignity and rights are clearly separated. Second, people are described as “free and equal in dignity.” This formulation is conceptually rich. It presents dignity as a broad concept that encompasses both freedom and equality, two notions traditionally and closely associated with human dignity. At the same time, the provision remains declaratory in nature. It does not prescribe conduct but rather states a foundational premise upon which constitutional interpretation is to be built.

The second sentence of Article 12 states that fundamental rights and freedoms are inalienable, non-transferable, imprescriptible, and irrevocable. This language resembles at least a bit Article 1 of the German Constitution, which proclaims the inviolability of human dignity. However, there is an important difference. In the Slovak Constitution, these characteristics are attributed to rights, not explicitly to dignity itself. This raises a theoretical difficulty. Article 12 appears to distinguish dignity from rights. Does this separation eliminates an interpretation according to which dignity serves as the basis of rights?

Here, systemic interpretation becomes crucial. Fundamental rights in the Constitution are themselves structured around freedom and equality categories that are intrinsically linked to both dignity and rights. One could argue that rights are grounded only in rights themselves, especially if Article 12 is read as establishing freedom and equality in rights rather than through dignity. Nevertheless, the use of the term “everyone” carries a strong implication of equality. Equality, in turn, is historically rooted in the Christian concept of human dignity, which was universalized in the aftermath of the Second World War.¹⁴ Universality is frequently identified as the core of human dignity. As everyone possesses it, equal treatment by the state must be the norm. This logic can, beyond the state, also be extended to other forms of authority, such as the European Union or international organizations. If fundamental rights and freedoms are, for everybody, inalienable, non-transferable, imprescriptible, and irrevocable, and if these rights are indeed, as

¹³ Article 1 of the Universal Declaration of Human Rights: „All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.“

¹⁴ CALLIESS, CH. Europe as Transnational Law – The Transnationalization of Values by European Law. In: German Law Journal, Vol. 10, Issue 10 (2009), p. 1368. DOI 10.1017/S2071832200018277.

we assume, grounded in human dignity, then human dignity itself must share these same characteristics, even if not expressly described as such in Article 12.

An additional question concerns whether Article 12 expresses a value or a principle. As noted, the provision is declaratory. It does not command or prohibit; rather, it articulates a fact that must be presupposed in all interactions with other human beings. All people are free and equal in their dignity and rights. Yet despite its declaratory form, Article 12 functions as a principle, a highly general one. If it were framed as a command, it might read: “All people shall be considered free and equal in their dignity and rights.” Such wording would make the normative dimension more explicit, but the underlying function would remain similar. Moreover, as a general constitutional provision, Article 12 is not limited to the catalogue of specific fundamental rights. Its content, however, remains vague and, because dignity is distinguished from rights, somewhat indeterminate. If dignity is separated from rights, what remains of its normative substance? For this reason, it is difficult to speak meaningfully of human dignity without rights, just as it is problematic to speak of rights without human dignity. Treating each concept in isolation leads to an analytical dead end.

This brings us to the question of how human dignity might be made more operational as a general principle. The main difficulty lies in the breadth and vagueness of the concept. Narrowing and specifying its content could facilitate its legal application. In this regard, Article 14 of the Constitution is noteworthy: “Everyone has the capacity to have rights.” Stephan Kirste, in his influential work on human dignity, proposes defining human dignity as the “right to have rights.”¹⁵ This approach is particularly intriguing. At first glance, it appears to abandon broader moral or philosophical understandings of dignity. Yet if dignity remains intrinsically linked to rights, few provisions express equality more clearly than Article 14. One could even argue that whenever the Constitution refers to “everyone,” this reference must be read in light of Article 12, where a general principle of human dignity can be identified.

Nevertheless, a close reading of the constitutional text suggests that Kirste’s conception of dignity is connected primarily to rights rather than to the broader goals or values of society. The declared premise, as expressed in Article 12, is to treat all people as free and equal in both their dignity and their rights. The difficulty once again lies in the wording. Dignity and rights are presented as distinct concepts, which weakens the interpretation of dignity as merely a right to have rights, unless we read Article 12 as treating dignity and rights as a unified whole rather than as separate elements.

From a strictly grammatical perspective, however, dignity is dignity, and rights are rights. On this basis, Article 12 does not support the conclusion that Article 14, understood as the capacity to have rights, constitutes the substantive core of human dignity itself. Systematically, no explicit connection to human dignity as a value can be made. This raises further difficulty. In international and European law, human dignity is commonly associated with the right to life and prohibition of cruel, inhuman, or degrading treatment and with the integrity of the person.¹⁶ In the Slovak Constitution, however, corresponding Articles 15 and 16 contains no explicit reference to human dignity. The question therefore arises. How is the dimension of human dignity introduced into this provision?

¹⁵ KIRSTE, S. A Legal Concept of Dignity as a Foundation of Law. In: KIRSTE, S., BRUGGER, W. (eds.) *Human Dignity as a Foundation of Law. Proceedings of the Special Workshop held at the 24th World Congress of the International Association for Philosophy of Law and Social Philosophy in Beijing, 2009*. Stuttgart : Franz Steiner Verlag, 2018, pp. 63 – 82. ISBN 9783515104838.

¹⁶ Charter of Fundamental Rights of the European Union, Article 4.

From a constitutional perspective, the only possible link is Article 12. This observation is equally relevant for Article 14. Kirste's conception of dignity as the right to have rights offers little guidance here, particularly when dignity is not expressly mentioned in Article 16. It is evident that cruel, inhuman, or degrading treatment violates human dignity. Yet without an explicit textual connection, and with Article 14 providing only a minimal, rights-focused understanding of dignity, such conduct would be classified merely as a violation of rights, rather than as a violation of human dignity itself.

This interpretation risks minimizing the normative force of Article 12, especially given that dignity and rights are presented side by side rather than hierarchically. If rights and dignity are violated simultaneously, the reference to dignity appears almost redundant. This raises a fundamental question. When, if ever, is human dignity violated in cases where no specific right has been infringed? To address this, it is essential to recognize that human dignity is a broader concept than individual rights. Article 12 does not refer solely to the specific fundamental rights enumerated in the constitutional catalogue, but also to rights in a more general sense, extending across the entire legal order. The normative impact of human dignity under Article 12 should therefore manifest precisely in situations where human dignity is violated without a direct infringement of a specific right. This, however, leads to an additional problem, which will be addressed below.

Article 19 is the only provision in which human dignity is explicitly mentioned as such in the Slovak constitution. This is, at first glance, deeply problematic. After extensive constitutional emphasis on human dignity as a foundational idea, linked to freedom and equality, we encounter the actual term "human dignity" embedded within a specific fundamental rights provision. How should this formulation be understood? Is human dignity here conceptually linked to personal honor, a largely subjective category, good reputation, and the protection of one's name? In effect, Article 19 appears to treat human dignity as a concrete, narrowly defined right, whose content is determined in close relation to other personality rights.

Under this reading, human dignity is no longer a foundational value or a general principle, but simply another right among others. The constitutional text thus seems internally inconsistent. On the one hand, Article 12 presupposes dignity as something universal and inherent, clearly separating it from rights. On the other hand, Article 19 treats dignity as a protected interest alongside personal honor and reputation. These two conceptions are difficult to align. It is implausible to argue that human dignity is exhausted by Article 19. Such an interpretation would be overly reductionist. Rather, what appears to be at play are two distinct conceptions of human dignity within the same constitutional framework.

Likewise, the Constitutional Court of the Slovak Republic understands human dignity as having a dual function within the legal order, both as an objective value and as a specific subjective right. Here, it is worth to mention its finding in the PL. ÚS 12/01 from 4th December 2007, in which Constitutional Court took it upon itself to approach human dignity in a more abstract and structural manner.¹⁷ In many ways, it is one of the most important findings of the Constitutional Court regarding dignity, as it makes clear how to approach human dignity as a value and right in the Slovak Constitution. The courts states that as an objective value, human dignity forms part of the implicit constitutional principles that underpin the system of fundamental rights, expressing core goals of the legal order and serving as a foundational element

¹⁷ Decision of the Constitutional Court of the Slovak Republic PL. ÚS 12/01 from 4th December 2007. For more detail on the position of human dignity in Slovak jurisprudence and legislation, see also: ĽALÍK, T. Ľudská dôstojnosť v právnom poriadku SR. In: Justičná revue, Vol. 69, no. 3 (2017), pp. 327 – 341. Dostupné online: https://www.academia.edu/32665880/%C4%BDudsk%C3%A1_d%C3%B4stojnos%C5%A5_v_pr%C3%A1vnom_poriadku_SR.

of the state's constitutional framework. In this sense, particularly under Article 12 of the Constitution, human dignity operates as a broader, structural concept closely linked to equality and freedom.¹⁸ At the same time, human dignity is recognized as a concrete subjective right under Article 19(1) of the Constitution. In this dimension, the Constitutional Court primarily associates human dignity with the right to privacy, viewing it both as a negative right, protecting individuals from unjustified interference in their private sphere and as a source of positive obligations on the state to ensure conditions for a dignified life. Together with freedom, this protection of privacy forms the basis of an individual's autonomous self-determination.¹⁹ More interestingly, it also connects the idea of human dignity to the physical and mental integrity, something that is not explicitly stated in the constitution.²⁰ Overall, the finding in question is a good example of why constitutional interpretation matters. Its argumentation in a large way diminishes the vague and unexplained formulation of human dignity inside the Slovak constitution.

Another important finding of the Constitutional Court of the Slovak Republic is decision I. ÚS 689/2014 of 9 November 2016. In this decision, the Court makes a somewhat puzzling statement with regard to human dignity. As outlined above, human dignity as a foundational constitutional value is primarily associated with Article 12. In the present case, however, the Court refers to human dignity alongside reputation, good name, and personal honour, which places it conceptually closer to Article 19. At the same time, the Court invokes the quintessential Kantian understanding of human dignity, grounded in the categorical imperative that a human being must never be treated merely as a means, but always as an end in themselves. It further characterizes human dignity as an absolute value that cannot be balanced against competing values.²¹ This dual approach creates a doctrinal tension. On the one hand, the Court appears to situate human dignity within the framework of personality rights under Article 19. On the other hand, it attributes to it the qualities of a foundational and absolute constitutional value, traditionally associated with Article 12. Rather than clearly distinguishing between these two dimensions, the Court's reasoning tends to blur the line between them, thereby weakening the conceptual clarity of human dignity within the constitutional order.

One possible interpretation is that the dignity protected under Article 19 is derived from, or at least closely connected to, the more general principle of human dignity expressed in Article 12. However, its placement alongside rights such as personal honor, reputation, and protection of one's name does not align with such an interpretation. This raises concerns, as the normative force of human dignity in constitutional law depends on its objective and universal character, not on subjective perceptions of infringement usually associated with personal rights.²² While rights protecting honor and reputation undoubtedly stem from human dignity, they represent specific manifestations rather than its core content. Still, by emphasizing that it cannot be weighed against other values, the Court appears to affirm its absolute dimension. However, this clarification comes at the cost of further obscuring the distinction between human dignity as a foundational

¹⁸ Decision of the Constitutional Court of the Slovak Republic PL. ÚS 12/01 from 4th December 2007. There were also multiple dissenting opinions to the finding, many of which underscored the importance of human dignity and its role in protecting human life.

¹⁹ Decision of the Constitutional Court of the Slovak Republic PL. ÚS 12/01 from 4th December 2007, point 12.

²⁰ Decision of the Constitutional Court of the Slovak Republic PL. ÚS 12/01 from 4th December 2007, point 13.

²¹ Decision of the Constitutional Court of the Slovak Republic I. ÚS 689/2014 from 9th November 2016, point 9.

²² NIDA-RÜMELIN, J. Why Human Dignity rests upon Freedom. In: KIRSTE, S., BRUGGER, W. (eds.) *Human Dignity as a Foundation of Law. Proceedings of the Special Workshop held at the 24th World Congress of the International Association for Philosophy of Law and Social Philosophy in Beijing, 2009.* Stuttgart : Franz Steiner Verlag, 2018, pp. 88 – 90. ISBN 9783515104838.

value and as a subjective right. The fact that the Court does not explicitly anchor its reasoning in either Article 12 or Article 19 leaves interpretative space open, but at the same time contributes to doctrinal uncertainty.

Overall, we can assume that human dignity is being taken seriously in Slovak Constitution, despite some doctrinal tension between its role as a value, legal principle and specific human right. However, there are more layers we need to take into account when talking about human dignity and its protection. Most importantly, it is necessary to consider the influence of external sources of law, in particular the Charter of Fundamental Rights of the European Union.

IV. CHARTER OF THE FUNDAMENTAL RIGHTS OF THE EU AND HUMAN DIGNITY

One important disclaimer at the start of this section of the article. There are important limitations for when and how Charter applies to the member states, such as Slovak Republic. This limitation is contained in Article 51 of the Charter, which states that Charter applies to member states only when they are implementing Union law. While these areas have become quite numerous, it is important to note that more than just Charter modifies the relationship between the EU law and the Slovak Constitution. The relationship is also defined from the side of the Slovak Constitution itself. Here, we need to talk a bit about the scope of Article 7(2) and the new constitutional amendment that deals with so-called national identity.

Article 7(2) of the Slovak Constitution deals with its relationship towards EU law and states, that legal acts of the EU enjoy primacy over the laws of the Slovak Republic. It says nothing about primacy over the constitutional law, and several positions could have been made in this regard. From the perspective of EU law and the jurisprudence of the Court of Justice of the European Union, the primacy of EU law extends to all national law, including constitutional provisions, whenever a matter falls within the scope of EU law.²³ From the point of the Slovak Constitution, the default is to interpret the article as is, with acknowledging the primacy over laws, but not the constitution.

Admittedly, the most recent constitutional amendment²⁴ adds a layer of complexity to the issue. The previously established primacy of EU law over laws, recognized since the Slovak Republic's accession in 2004, is now limited even further. The amendment, among other changes, added a new section 6 to the Article 7 of the Slovak Constitution, which provides that, in cases of conflict in areas falling within national identity, explicitly including human dignity, the Slovak Republic retains primacy. The inclusion of human dignity within the concept of national identity raises questions. The Constitutional Court of the Slovak Republic has consistently emphasized the universal character of human dignity²⁵, suggesting that it is a value inherent to all individuals rather than one confined to a particular national framework. From this perspective, it may be difficult to reconcile its universality with its classification as a part of national identity. At the same time, it is not immediately clear how the notion of national identity could justify any limitation or differentiation in the protection of human dignity. Many fundamental rights are derived from this core value, and any level of protection exceeding that provided by EU law would, in principle, be consistent with its underlying purpose. The amendment was largely meant to represent, as prime minister put it, a “dam against

²³ Judgments of the Court of Justice of the EU C-11/70 Internationale Handelsgesellschaft v Einfuhr- und Vorratsstelle für Getreide und Futtermittel; C-6/64 Costa v ENEL; C-106/77 Amministrazione delle Finanze dello Stato v Simmenthal SpA.

²⁴ Ústavný zákon č. 255/2025 Z. z.

²⁵ Decision of the Constitutional Court of the Slovak Republic I. ÚS 689/2014 from 9th November 2016, point 9.

progressivism”.²⁶ However, the provisions of Chapter I of the Charter of Fundamental Rights of the European Union do not, in themselves, prescribe any particular ideological direction, but rather establish general principles applicable across contexts. It is also worth noting that it is actually the Constitutional Court of the Slovak Republic that has previously linked human dignity to personal self-determination in Article 19 of the Slovak Constitution.²⁷ To the extent that self-determination includes decisions relating to personal identity, including perhaps gender, one could argue that certain aspects of these questions are already grounded in domestic constitutional jurisprudence, independently of the Charter. From this perspective, and without engaging in a detailed analysis of the amendment, the inclusion of human dignity within the concept of national identity does not appear, at least *prima facie*, to alter the level of protection afforded under the Charter. With these limitations in mind, we can return to the analysis of the Charter.

The Charter of fundamental rights of EU is relatively short, only 17 pages, some of which consist of the preamble. Although the preamble is not legally applicable in the strict sense, it remains worth examining, as it serves somewhat important function. The preamble indicates how the rights listed in the Charter are to be understood and applied. It speaks of the nations of Europe, recalling their spiritual and moral heritage, and states that the Union is founded on the indivisible and universal values of human dignity, freedom, equality, and solidarity. This is followed, after a semicolon, by a reference to the principles of democracy and the rule of law. Here, an interesting comparison with the Slovak Constitution emerges. The Union has no difficulty placing human dignity at the forefront. It is the first value mentioned and, notably, it is separated from freedom, equality, and solidarity. This separation implies that these concepts are not synonymous but distinct and autonomous values. Importantly, there is no direct mention of rights at this stage. They appear later in the preamble, where the importance of strengthening the protection of fundamental rights is emphasized.

In this context, human dignity in the preamble is clearly used as a value rather than as a concrete guiding principle or right. However, the statement that the Union is founded on the indivisible and universal value of human dignity can reasonably be interpreted to mean that everything that follows should be understood in light of this foundational value. In this sense, human dignity once again acquires the character of an interpretative guideline. While preamble is not legally enforceable, it should nevertheless influence the decision-making of the Court of Justice of the European Union.

Chapter I of the Charter is particularly significant. The very heading, *Dignity*, suggests that the articles contained therein are connected to, or derived from, human dignity. Article 1 is formulated in simple but absolute terms: “*Human dignity is inviolable. It must be respected and protected.*” This wording implies the paramount position of human dignity within the Charter. If one were to attempt to weigh human dignity against other values or principles contained in the Charter, dignity would necessarily prevail. However, we need not speculate about what human dignity means in this context. The structure of Chapter I allows for systematic interpretation. All subsequent articles under this chapter are to be understood as concretizations or derivations of human dignity. In this way, the normative force of Article 1 extends to the rights listed below it.

These rights include:

- the right to life; Article 2 (1)

²⁶ LOPATKA, J. Slovak PM seeks control of 'national identity' issues in potential clash with EU law. [online]. June 10, 2025 [cit. 9. septembra 2026]. Dostupné online: <https://www.reuters.com/world/slovak-pm-seeks-control-national-identity-issues-potential-clash-with-eu-law-2025-06-10/>.

²⁷ Decision of the Constitutional Court of the Slovak Republic PL. ÚS 12/01 from 4th December 2007, point 13.

- the prohibition of the death penalty and executions; Article 2 (2)
- respect for physical and mental integrity; Article 3 (1)
- provisions concerning biology and medicine (Article 3 (2)), including:
 - free and informed consent under conditions laid down by law;
 - the prohibition of eugenic practices, particularly those aimed at the selection of persons;
 - the prohibition of making the human body and its parts a source of financial gain;
 - the prohibition of the reproductive cloning of human beings;
- the prohibition of torture and inhuman or degrading treatment or punishment; Article 4
- the prohibition of slavery and servitude; Article 5 (1 and 2)
- the prohibition of trafficking in human beings. (Article 5 (3))

These are the rights explicitly connected to human dignity in the Charter. Notably, several of them are also present in the Slovak Constitution, most prominently the prohibition of torture and inhuman or degrading treatment or punishment, respect for physical and mental integrity, and the right to life. Paradoxically, however, these rights are not explicitly linked to human dignity in the Slovak constitutional text, whereas the Charter makes this connection explicit. This raises an important question. Does this explicit connection affect how we should interpret our own Constitution, particularly Articles 15 and 16? Are these rights strengthened by being directly tied to the value of human dignity under EU law?

The decision to connect specific rights to human dignity as a foundational value is a sophisticated legislative choice. It distinguishes dignity as a value from the rights derived from it, while simultaneously elevating those rights above others. The distinction lies in the absolute formulation of human dignity. Because these rights are derived from dignity, their relationship to other rights appears similarly absolute, significantly limiting the possibility of balancing or weighing them against competing interests.²⁸ This becomes particularly interesting when human dignity is compared with other values and rights, such as the freedoms listed under the next title of the Charter. Many of these freedoms, and indeed, the freedom as a value in itself, are traditionally associated with human dignity, yet the Charter deliberately differentiates them, both in the preamble and in its structure. This suggests that the drafters intended to confine the content of human dignity to the rights enumerated in Chapter I. Consequently, it becomes difficult to argue for a broader interpretation of dignity that extends beyond these explicitly listed rights.

The preamble itself reinforces this interpretation by distinguishing dignity from freedoms, equality, and solidarity. The only remaining interpretative option, therefore, is to treat human dignity as encompassing only those rights explicitly associated with it in Title I. Where does this leave us? Although the Charter represents a small improvement in its treatment of human dignity by clearly linking it to a specific set of rights, it simultaneously imposes structural limitations that hinder a broader use of dignity in legal interpretation and argumentation. By positioning human dignity as an absolute value, it renders the associated rights resistant to balancing and excludes other rights from being linked to dignity. This effectively prevents interpretations such as Kirste's conception of dignity as a "right to have rights," unless one were to reduce Article 1 to that meaning alone, an approach that would be both excessively restrictive and incompatible with the Charter's structure.

²⁸ TIEDEMANN, P. Human Dignity as an Absolute Value. In: KIRSTE, S., BRUGGER, W. (eds.) *Human Dignity as a Foundation of Law. Proceedings of the Special Workshop held at the 24th World Congress of the International Association for Philosophy of Law and Social Philosophy in Beijing, 2009.* Stuttgart : Franz Steiner Verlag, 2018, p. 26. ISBN 9783515104838.

Human dignity is explicitly mentioned primarily in the Charter, particularly in its preamble. Neither the Treaty on European Union nor the Treaty on the Functioning of the European Union originally enshrined human dignity in their preambles. However, through systematic interpretation, EU primary law must be understood as a coherent whole. This allows human dignity, as articulated in the Charter of Fundamental Rights, to be regarded as a central value of EU law, at least since 2009, when the Charter became legally binding. That said, the treaties do refer to principles such as freedom, democracy, respect for human rights and fundamental freedoms, and the rule of law, as well as to universal values and inalienable rights of human beings. Values and principles are carefully distinguished, yet human dignity is notably absent from these formulations and only make presence in the following articles of the Treaty on the European union.

Article 2 of the Treaty on European Union explicitly states that the Union is founded on values of respect for human dignity, freedom, democracy, equality, the rule of law, and respect for human rights, including the rights of persons belonging to minorities. These values are described as common to all Member States, within societies characterized by pluralism, non-discrimination, tolerance, justice, solidarity, and equality between women and men. Article 21 then further provides that the Union seeks to promote the protection of human dignity in its external action. Here again, human dignity is clearly distinguished from other values, confirming its autonomous and foundational status within EU law. Nevertheless, without Charter to lean on, position of human dignity inside the EU would be rather slim.

1. Convention on Human Rights

When one speaks of human rights protection in Europe, the mind naturally turns to the Council of Europe and its Convention on Human Rights. This instrument is often described, at least by its own court, as the constitutional foundation of Europe.²⁹ It is therefore reasonable to examine how the Convention influences the protection of human dignity within national constitutional orders, such as that of the Slovak Republic. Even a cursory reading of the Convention makes clear that it functions primarily as a catalogue of rights rather than of values. The preamble contains no explicit reference to human dignity, although it does refer to the Universal Declaration of Human Rights.³⁰ Consequently, the preamble cannot be interpreted as directly grounding the Convention in human dignity, at least not expressly. Moreover, the preamble is not legally binding, which further limits its normative significance in this respect.

Articles 2 (right to life), 3 (prohibition of torture and inhuman or degrading treatment or punishment), and 4 (prohibition of slavery and forced labour) correspond to rights that, in the Charter of Fundamental Rights of the European Union, are explicitly linked to human dignity under Title I. In the Convention, however, these provisions exist as autonomous rights, without any explicit conceptual connection to human dignity as a foundational value. Article 8 of the Convention, which guarantees the right to respect for private and family life, corresponds to Article 19 of the Slovak Constitution, where the protection of human dignity is expressly mentioned as a guiding principle. By contrast, the Convention does not anchor Article 8 in human dignity, framing it solely as an independent right.

²⁹ GREER, S. *The European Convention on Human Rights: Achievements, Problems and Prospects*. Cambridge : Cambridge University Press, 2009, p. 7. ISBN 9780511494963. DOI 10.1017/CBO9780511494963.

³⁰ This is important, as the Universal Declaration of Human Rights does actually center all human rights around the value of human dignity. Preamble of the Universal Declaration of Human Rights: „Whereas recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world,“

The remainder of the Convention likewise contains no explicit reference to human dignity, with one notable exception. Protocol No. 13 provides the only direct point of connection between the Convention system and the concept of human dignity. By abolishing the death penalty in all circumstances, it implicitly affirms the intrinsic worth of human life and, by extension, human dignity, linking dignity to the right to life without expressly naming it.

It may therefore be concluded that the Convention makes only minimal reference to human dignity, which is somewhat surprising given the central role that dignity plays in many national constitutional orders. Rather than treating dignity as a foundational or interpretative value, the Convention relies predominantly on a catalogue of individual rights that operate independently of any explicit dignity-based framework. That said, this structure is consistent with the nature of the Convention itself: human dignity functions primarily as a value, rather than as a distinct human right, and the Convention is designed as a catalogue of rights rather than of the values from which those rights are derived. This of course does not mean that the Convention does not protect human dignity. European Court of Human Rights does lean on human dignity in its jurisprudence.³¹ But as stated in the introduction to this article, case law is not the primary objective of the analysis in this article, the textual analysis is.

V. THE IMPORTANCE OF THE CHARTER OF THE FUNDAMENTAL RIGHTS OF THE EU IN CONSTITUTIONAL STRUCTURE OF EUROPE AND ITS STATES

The following is primarily a normative theoretical framework of how the Charter of the fundamental rights of the EU could be used to strengthen the position of human dignity. It does not seek to describe an established line of constitutional practice or to suggest that such interaction has already fully materialized in the jurisprudence of the Slovak Constitutional Court. The focus is on the Slovak constitution, since that is the one that had been analyzed. It is possible, however, to do the same analysis with other constitutions and see where the Charter might be of help. This of course, is once again, very much limited to the times that Charter applies to member states, meaning, when EU law is being implemented. Moreover, the theoretical framework is built upon the theory of multilevel constitutionalism, which treats the EU law and national legal systems as distinct parts (layers) of the common constitutional framework, where the ties between the legal systems are more extensive.³²

In terms of what we discussed till now, it may be a good time to make a comparison of what the explicit textual protection of human dignity in Slovak constitutional system looks like with and without Charter in effect. Each part of the joint list will be prefaced with either SC for Slovak Constitution or CH for Charter. In regard to the Convention, we excluded it from comparisons as it serves more as a catalogue of rights, rather than leaning into the protection of values outright. Here is the list of rights and/or principles directly connected to the value of human dignity in either Slovak constitution or through the effects of the Charter:

- (SC) Freedom and equality in dignity (Article 12(1) of the Slovak Constitution)
 - formulated as a guiding principle of the human rights that follow
- (CH) The right to life
 - explicitly connected to dignity in the Charter, thereby strengthening its position in both constitutional and Convention contexts (Article 15(1) of the Slovak Constitution)

³¹ Judgments of the European Court of Human Rights *Svinarenko and Slyadnev v. Russia* App. No. 32541/08 and 43441/08 from 17th July 2014; *Pretty v. The United Kingdom* App. No. 2346/02 from 29th April 2002.

³² The author of the theory is Ingolf Pernice; for more detail see: PERNICE, I. Multilevel Constitutionalism in the European Union. WHI – Paper 5/02 (2001), 16 p. Dostupné online: <https://www.rewi.hu-berlin.de/de/lf/oe/whi/publikationen/whi-papers/2002/whi-paper0502.pdf>.

- (CH) Prohibition of the death penalty and executions
 - linked to dignity through the Charter and reinforced by the Convention (Article 15(3) of the Slovak Constitution)
- (CH) Respect for physical and mental integrity
 - connected to dignity via the Charter (Article 16(1) of the Slovak Constitution)
- (CH) Biology and medicine (connected to dignity exclusively by the Charter)
 - free and informed consent under conditions laid down by law;
 - prohibition of eugenic practices, particularly those aimed at the selection of persons;
 - prohibition of making the human body and its parts a source of financial gain;
 - prohibition of reproductive cloning of human beings.
- (CH) Prohibition of torture and inhuman or degrading treatment or punishment
 - linked to dignity through the Charter (Article 16(2) of the Slovak Constitution)
- (CH) Prohibition of slavery and servitude
 - connected to dignity by the Charter (Article 18(1) of the Slovak Constitution)
- (CH) Prohibition of trafficking in human beings
 - connected to dignity exclusively by the Charter
- (SC+CH) Protection of human dignity as such
 - Article 19(1) of the Slovak Constitution, whose substantive meaning remains unclear: “Everyone has the right to maintain their human dignity, personal honor, good reputation and to the protection of their name.”
 - Article 1 of the Charter: Human dignity is inviolable. It must be respected and protected.

We made sure to highlight that most of the rights that are connected to human dignity in Charter do exist in Slovak Constitution. The importance of the Charter here is not in mere supplementation of the catalogue with new rights. It is primarily the connection to human dignity that does the heavy lifting. Although human dignity is present in the Slovak Constitution, its position appears more like an afterthought than the result of a systematic effort to integrate the value into the constitutional order. Human dignity is presented as an important value, yet it is not clearly associated with any specific set of rights, at least not in the text of the constitution itself.³³ At the same time, dignity is also framed as a specific personal right, primarily linked to the protection of personal honor and good reputation. This narrows its substantive scope and substantially limits its usefulness as a broader constitutional concept. The Charter of Fundamental Rights of the EU also differentiates between dignity and rights. However, unlike the Slovak Constitution, it explicitly connects a defined group of rights to human dignity and places them, together with dignity itself, at the very beginning of the Charter. This structural choice elevates both dignity and the associated rights within the hierarchy of fundamental rights. Through the Charter, it becomes possible to interpret certain rights contained in the Slovak Constitution as based and structured around human dignity, even where such a connection is not made explicitly in the constitutional text. This is obviously important for the level of protection these rights enjoy. Their importance is sky-rocketed due to their direct connection to human dignity, the most important value protected in the EU.

This effect may not be exclusive to the Slovak constitutional system and could also be observed in, for example, Croatia. Their Constitutional Court cited Article 1 of the Charter to strengthen the protection afforded by Article 35 of the Croatian Constitution. The case concerned

³³ As previously mentioned during the analysis of human dignity in the Slovak Constitution, the Constitutional Court of the Slovak Republic did connect the value of human dignity with at least certain rights.

a situation in which a local court found that a twelve year old child had not yet formed a perception of his personal reputation and dignity and therefore did not have a right to compensation for damages on that basis. By relying on Article 1 of the Charter, the Constitutional Court declared human dignity to be inviolable and further explained that the Charter's understanding of dignity had become a component of the human rights catalogue of the Croatian Constitution.³⁴ It can therefore be observed that the Charter may strengthen the position of human dignity within the Member States. Interestingly, as Gabriel N. Toggenburg notes, the right to dignity is invoked relatively rarely by the Court of Justice of the European Union itself, approximately once or twice per year, whereas other Charter rights are relied upon, on average, five times as often.³⁵ Toggenburg suggests that this can be explained by the existence of other dignity-based rights within the "Dignity" chapter of the Charter.

Overall, these effects can be traced to the various theories of constitutional pluralism, in this case particularly to multilevel constitutionalism. Of the three normative dimensions associated with this theory, all three can be identified here, albeit in a more subtle manner. First, we can observe what Marta Breichová Lapčáková describes as *international verticality*.³⁶ Multilevel constitutionalism recognizes the binding nature of European law within the framework of national law. In doing so, it acknowledges a vertical normative relationship characteristic of monism, in this case with the primacy of European law. It is precisely this international verticality that enables the strengthened protection of human dignity within the Slovak constitutional system and in constitutional systems of other member states of the EU.

The second relevant dimension is *national verticality*.³⁷ This can be illustrated by Article 1 of the Charter of Fundamental Rights of the European Union, which constitutes the foundational provision of the document and the principal reason why human dignity now enjoys enhanced protection across the European Union. This development is hardly surprising, as the provision draws clear inspiration from the German Constitution, whose Article 1 similarly proclaims that "*Human dignity is inviolable.*" The Charter reflects the influence of the German constitutional tradition in the wording of its Article 1 and represents a clear example of constitutional dialogue typical of international and transnational legal orders, where transnational documents often draw inspiration from the constitutional traditions and judicial practices of their member states.³⁸

Finally, this interaction reveals a form of *normative horizontal overlap*³⁹ between the German and Slovak constitutional orders. The absolute conception of human dignity embedded in

³⁴ Decision of the Constitutional Court of Croatia U-III-1095/2014, 21.09.2017.

³⁵ TOGGENBURG, G.N. The 1st of all EU-r rights: dignity and how the Charter contributes. [online]. December 17, 2019 [cit. 9. septembra 2026]. Dostupné online: <https://www.eurac.edu/en/blogs/eureka/the-1st-of-all-eu-r-rights-dignity-and-how-the-charter-contributes>.

³⁶ BREICHOVÁ LAPČÁKOVÁ, M., PAVLINSKÝ, R. Multilevel Constitutionalism and other „ISMS“ in South America – Testing the Theory of Multilevel Constitutionalism on the Example of the Regime under American Conventions on Human Rights. In: The Lawyer Quarterly, Vol. 15, No. 3 (2025), p. 348. Dostupné online: <https://tlq.ilaw.cas.cz/index.php/tlq/article/view/657>.

³⁷ BREICHOVÁ LAPČÁKOVÁ, M., PAVLINSKÝ, R. Multilevel Constitutionalism and other „ISMS“ in South America – Testing the Theory of Multilevel Constitutionalism on the Example of the Regime under American Conventions on Human Rights. In: The Lawyer Quarterly, Vol. 15, No. 3 (2025), p. 348. Dostupné online: <https://tlq.ilaw.cas.cz/index.php/tlq/article/view/657>.

³⁸ BREICHOVÁ LAPČÁKOVÁ, M., PAVLINSKÝ, R. Multilevel Constitutionalism and other „ISMS“ in South America – Testing the Theory of Multilevel Constitutionalism on the Example of the Regime under American Conventions on Human Rights. In: The Lawyer Quarterly, Vol. 15, No. 3 (2025), p. 348. Dostupné online: <https://tlq.ilaw.cas.cz/index.php/tlq/article/view/657>.

³⁹ BREICHOVÁ LAPČÁKOVÁ, M., PAVLINSKÝ, R. Multilevel Constitutionalism and other „ISMS“ in South America – Testing the Theory of Multilevel Constitutionalism on the Example of the Regime under American Conventions on Human

the German Constitution, transmitted through the Charter of Fundamental Rights of the EU, which adopted the wording in Article 1, and reinforced through the primacy of EU law and the dimension of international verticality, has ultimately found its way into the Slovak constitutional system. What might initially appear as a simple consequence of the primacy of European law is therefore considerably more complex. It reflects a dynamic constitutional interplay between two domestic legal systems and the supranational legal order of the European Union, characteristic of the common constitutional framework that lies at the heart of multilevel constitutionalism.

Article 1 of the Charter gives rise to another important discussion, one concerning the absolute dimension of human dignity under the Charter and its effects on the constitutional orders of the Member States, as well as on the EU itself. Many scholars, such as Sandra Mantu and Jackie Jones, regard Article 1 of the Charter as expressing an absolute value. Furthermore, Jackie Jones⁴⁰ argues that the strength of Article 1 lies in the fact that even where no other specific right has been violated, it may still be possible for human dignity to have been infringed. In this sense, human dignity functions as a last line of defense for human rights. Standing on its own, it separates dignity from other rights and ensures that the scope of human dignity is not exhaustively determined or limited by them. At the same time however, it connects other rights to the value of human dignity. Again, the importance of seeing human dignity as a value and as a specific right cannot be understated.

For Sandra Mantu⁴¹, the significance of human dignity lies primarily in inclusion. She proposes the use of Article 1 of the Charter as a kind of bridge across EU Member States in order to strengthen the social rights of migrant EU citizens in jurisdictions that do not traditionally link human dignity to such rights. The Charter's role as a bridge between European constitutional systems lies in its ability to lend the absolute character of human dignity, as articulated in the Charter, to provisions of national constitutions, thereby reinforcing human rights protection and centering it more firmly on dignity. In this way, it also compels states to ensure equal treatment, as required by the effective realization of the free movement of persons.⁴²

One of the prevailing issues however, at least in regard to its ability to bridge legal cultures, is that the meaning and scope of dignity may vary depending on jurisdiction and cultural context.⁴³ This could cause issues when trying to ascertain more uniform interpretation of human dignity, particularly, as Jackie Jones also states, when it is ultimately the constitutional courts of the Member States that apply and develop this concept.⁴⁴ Moreover, attempting to assert human dignity as an absolute value across the spectrum may be a mistake. Indeed, there is an argument to be made for dignity as a relative value. As Jackie Jones observes⁴⁵, the central question is not whether dignity is inviolable in principle, but rather how far its protection should extend in

Rights. In: *The Lawyer Quarterly*, Vol. 15, No. 3 (2025), p. 348. Dostupné online: <https://tlq.ilaw.cas.cz/index.php/tlq/article/view/657>.

⁴⁰ JONES, J. Human Dignity in the EU Charter of Fundamental Rights and its Interpretation Before the European Court of Justice. In: *Liverpool Law Review*, Vol. 33 (2012), p. 287. DOI 10.1007/s10991-012-9121-9.

⁴¹ MANTU, S. When Equal Treatment is Not Enough: Human Dignity for Migrant EU Citizens. In: *European Papers – A Journal on Law and Integration*, Vol. 10, No. 1 (2025), p. 137. DOI 10.15166/2499-8249/828.

⁴² MANTU, S. When Equal Treatment is Not Enough: Human Dignity for Migrant EU Citizens. In: *European Papers – A Journal on Law and Integration*, Vol. 10, No. 1 (2025), pp. 138 – 139. DOI 10.15166/2499-8249/828.

⁴³ BURGUEÑO, B.F. The Usefulness of the Legal Concept of Human Dignity in the Human Rights Discourse: Literature Review. In: *Oximora: revista internacional d'Ètica i Política*, no. 8 (2016), p. 11. Dostupné online: <https://raco.cat/index.php/Oximora/article/view/309200/399181>.

⁴⁴ JONES, J. Human Dignity in the EU Charter of Fundamental Rights and its Interpretation Before the European Court of Justice. In: *Liverpool Law Review*, Vol. 33 (2012), p. 281. DOI 10.1007/s10991-012-9121-9.

⁴⁵ JONES, J. Human Dignity in the EU Charter of Fundamental Rights and its Interpretation Before the European Court of Justice. In: *Liverpool Law Review*, Vol. 33 (2012), p. 299. DOI 10.1007/s10991-012-9121-9.

concrete cases and whether one person's dignity should give way to another's autonomy or security, and whether minor interferences with dignity should carry decisive weight when set against serious incursions into other fundamental interests.

There is yet another possible way of looking at the absolute dimension of human dignity in the Charter. Since the Article 1 of the Charter took an inspiration from German Grundgesetz, we might actually look at how they deal with this question. Enter the German Federal Constitutional Court's judgment on the German Aviation Security Act.⁴⁶ The Act authorized the German armed forces to shoot down a hijacked passenger aircraft if it was going to be used as a weapon. The Court held that shooting down an aircraft carrying innocent passengers and crew would violate human dignity under Article 1(1) of the German Basic Law. By intentionally killing the innocent people on board to save others on the ground, the state would treat them as mere objects to the rescue operation rather than as autonomous subjects possessing inherent dignity, as per points 120 through 124 of the judgment. This interpretation sparked a new renewal in a debate between absolute and relative dimensions of human dignity. Robert Alexy⁴⁷ keeps the position that the relative conception is correct, although there exist some features of human dignity that move in the direction of absoluteness. The basis of his argument is his principles theory. Matthias Klatt⁴⁸ point to the weighing formula and considers human dignity to still be possible to be weighed against other principles, although he does acknowledge that human dignity has its own specifics and that here in this decision, the weights treated human dignity in the highest normative weight. He leans heavily on principles theory as well. Oliver Lepsius⁴⁹ on the other hand used the case to defend a stronger conception of human dignity as a constitutional limit that resists consequentialist trade-offs. Overall, he agrees with the judgment fully and praised the court's decision to strike down the Act.

Aside from these approaches, we may not venture far from the Charter itself. Article 52 of the Charter says that all the rights are subject to the principle of proportionality, while limitations may be made only if they are necessary and genuinely meet objectives of general interest recognized by the Union or the need to protect the rights and freedoms of others. The Charter itself does then seem to make weighing and balancing possible. Taken together, the debate over the absolute versus relative character of human dignity shows itself as less of a doctrinal contradiction than a reflection of its complex constitutional function. From this perspective, an overly rigid, positivistic reading of human dignity would miss its point. Dignity was never meant to paralyze constitutional reasoning by standing above all other values in every conceivable situation. Its inviolability instead signals its foundational role in human rights protection and in equal treatment of all people. In this sense, human dignity does not belong to states or constitutions, but to individuals themselves. It is a value that transcends borders and, in appropriate contexts, lends its absolute character, most clearly articulated in Article 1 of the Charter, to other rights that require enhanced normative weight in the balancing process. By its very nature, dignity resists the construction of rigid hierarchies among rights, which is precisely its biggest strength. Ultimately, the supposed battle between absolute and relative character of human dignity is in large part unnecessary. Human dignity must sometimes operate as an

⁴⁶ Judgment of the Federal Constitutional Court of Germany BVerfG, 1 BvR 357/05, 115 BVerfGE 118 (2006).

⁴⁷ ALEXY, R. Menschenwürde und Verhältnismäßigkeit. In: Archiv des öffentlichen Rechts (AöR), Vol. 140, Issue 4 (2015), pp. 497 – 513. DOI 10.1628/000389116X14525976022207.

⁴⁸ KLATT, M., SCHMIDT, J. Epistemic discretion in constitutional law. In: International Journal of Constitutional Law, Vol. 10, Issue 1 (2012), pp. 69 – 105. DOI 10.1093/icon/mor056.

⁴⁹ LEPSIUS, O. Human Dignity and the Downing of Aircraft: The German Federal Constitutional Court Strikes Down a Prominent Anti-terrorism Provision in the New Air-transport Security Act. In: German Law Journal, Vol. 7, Issue 9 (2006), pp. 761 – 776. DOI 10.1017/S2071832200005071.

absolute value and, at other times, as a relative one, depending on the constitutional context in which it is invoked.

VI. CONCLUSION

Throughout this article, we have examined the protection of human dignity within the constitutional framework of the Slovak Republic and the extent to which this protection is strengthened by the Charter of Fundamental Rights of the European Union. The analysis leads to several conclusions. While Slovak Constitution does protect human dignity as a value, it only explicitly works as legal principle or a specific right. Overall, human dignity as a value is conceptually separated from rights, apart from article 19, where it makes an appearance as a specific human right, closely connected to rights such as personal honor or protection of a good name. Such limited and fragmented treatment raises legitimate doubts as to whether human dignity enjoys sufficiently robust protection within the constitutional order of the Slovak Republic. The Constitutional Court of the Slovak Republic, however, has made it clear that human dignity is a very important and protected legal value connected to numerous other rights and even went as far as proclaiming it to be absolute in character.

The role of the Charter of Fundamental Rights of the European Union in protection of human dignity is equally significant. The Charter strengthens the constitutional protection of human dignity in two essential ways. First, it proclaims the inviolability of human dignity in Article 1, affirming its absolute dimension in a more explicit manner. Second, it structurally connects a wide range of fundamental rights to the underlying value of human dignity. This dual effect has important consequences. On the one hand, rights already enshrined in the Slovak Constitution may be interpreted in light of human dignity as a foundational value. On the other hand, the inviolability of dignity enhances the normative force of those rights, particularly in situations involving balancing or conflicts between competing rights. In this sense, the Charter operates as an amplifier, reinforcing the constitutional protection of dignity without formally altering the text of the Slovak Constitution. Comparable effects can be observed in other Member States, suggesting that this strengthening is a product of intra-systemic cooperation between the Charter and constitutions of the EU member states.

Human dignity remains an open and abstract concept. Yet this indeterminacy should not be viewed as a weakness, but rather as a source of its enduring normative strength. As the analysis demonstrated, human dignity operates effectively despite the vagueness of its substance. Its open-ended character enables protection even in situations where no specific fundamental right has been found to be violated, and it can function as a unifying bridge among Member States by reinforcing the equal treatment of all individuals. Our analysis has also shown that human dignity frequently operates in its absolute dimension, particularly as a means of strengthening other rights through conceptual linkage. Yet it is undoubtably true that there may be cases where this is not preferable and where we might need to treat human dignity as a relative value. Entrusting courts with this determination does not amount to judicial activism, but it reflects the nature of constitutional adjudication itself and preserves the protective function of fundamental values.

KEY WORDS

Constitution of the SR, Human dignity, Charter of the fundamental rights of the EU, Constitutional pluralism, Human rights

KLÚČOVÉ SLOVÁ

Ústava SR, Ľudská dôstojnosť, Charta základných práv EÚ, ústavný pluralizmus. Ľudské práva

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