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HUMAN DIGNITY AS A PRINCIPLE OF INTERPRETATION OF EUROPEAN UNION LAW

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Abstract: *Referred to by legal scholars as the "mother right", human dignity is enshrined in European Union law as a fundamental value (Article 2 of the TEU), as a fundamental right (Article 1 of the Charter of Fundamental Rights of the EU) or as the "real basis of fundamental rights" (Explanations to the Charter), as well as a "general principle of law" (Omega case). From a positivist-normative perspective – one that permeates contemporary judicial practice – we believe, however, that human dignity should be valued as a "principle of interpretation", reflecting its inexhaustible hermeneutic potential, which judges can routinely employ in the rendering of justice. In this way, the Court would simply be placing human beings at the centre of all EU activities.*

Key words: *human dignity, principle of legal interpretation, Court of Justice of the European Union*

1. Introduction

It is not uncommon for the judicial practice of the highest national and supranational courts to reflect a particular philosophical current or, at least, a general conception of the world and of human existence. Such is the case, for instance, with the concept of evolutionary interpretation embraced by the European Court of Human Rights (hereinafter *ECtHR*), whose theoretical roots can be traced to the pre-Socratic philosopher Heraclitus of Ephesus, who held that everything is in a state of constant change – *panta rhei* – "no one ever steps in the same river twice, for it is not the same river and he is not the same man". Conversely, the hypothesis of American originalism may be seen as grounded in the opposing view of Parmenides of Elea, who argued that "the human being is eternal, immutable, and indivisible" and that "change is only an illusion of the senses".

However, perhaps none of the classical philosophical ideas that influenced later legal concepts is more relevant and topical than Kant's formula, which obliges us to regard "man as an end in himself, and never merely as a means". Gradually but decisively, this philosophical idea has begun to underpin all modern fundamental rights and constitutes

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the birth of human dignity as a hermeneutic principle in the case law of the major courts. By invoking the concept of human dignity in the reasoning behind their judicial decisions, the courts attribute a normative-interpretative value to it.

In what follows, we will seek to identify in the case law of the Court of Justice of the European Union (hereinafter *CJEU* or *Court of Justice*) the main approaches to the concept of human dignity as a principle of legal interpretation.

2. Human dignity in early national and international regulations

As with any fundamental notion, the idea preceded the term. While, over the centuries, treating human beings with respect – simply because they belong to the human species – has been based either on religious beliefs or secular reasoning, the term *dignitas* appears in legal history for the first time in *the Corpus Juris Civilis,* with the meaning of high rank or office. In Roman law texts, dignity did not yet refer to the intrinsic value of human beings, but was associated with social status, public position and the honour that derived from them.

However, the modern concept of human dignity differs significantly from its archaic meaning. In relation to its original meaning, only the idea of the special value of the person thus designated has been retained. As shown in doctrine (Daly, 2021, pp. 11–12), from a contemporary perspective, dignity no longer designates a privilege reserved for an elite, but an *attribute inherent to all human beings.* Moreover, dignity plays an *equalising role,* so that every individual enjoys the same rights and is subject to the same obligations under the law.

Thus, over the centuries, the meaning of the term *dignity* has shifted from *dignitas* (social rank) to *modern human dignity* (an egalitarian and justiciable principle).

In its contemporary evolution, the legal recognition of human dignity began with the explicit inclusion of the term in the main international instruments adopted after the Second World War. A natural reaction to the atrocities committed during that period, the 1945 Charter of the United Nations reaffirms, in its preamble, “faith in the dignity and worth of the human person”. Subsequently, the Universal Declaration of Human Rights of 10 December 1948 enshrines dignity as the foundation of freedom, justice and peace in the world, emphasising its “inherent dignity of all members of the human family”.

On this basis, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), adopted in 1966, reinforced the idea that “human rights derive from the inherent dignity of the human person”. These instruments translated the principle into concrete norms: the humane treatment of persons deprived of their liberty (Article 10 of the ICCPR) and the role of education in the development of personality and a sense of dignity (Article 13 of the ICESCR).

A decisive step in affirming dignity as a constitutional principle was taken by the German Basic Law of 1949, which proclaims in Article 1 that "Human dignity shall be inviolable. To respect and protect it shall be the duty of all state authority." This wording undoubtedly reflects the desire of post-war German society to distance itself from the abuses of the Nazi regime and to place human dignity at the centre of the constitutional order.

Interestingly, despite the authoritarian nature of communist regimes, the notion of dignity was nevertheless incorporated into their fundamental laws. For example, Article 13 of the 1965 Romanian Constitution stated that "ensuring human freedom and dignity, the multilateral affirmation of human personality" was the goal of "all state activity".

This raises the question: is "human dignity" a purely rhetorical concept devoid of normative content, or is it a legal principle with effective force and current relevance? Doctrinal debates have attempted to provide some answers in this regard.

3. Human Dignity in Modern Legal Doctrine

The primordial and fundamental nature of human dignity in the legal order is well captured by Hannah Arendt's famous metaphor, which defined dignity as "the right to have rights" (Arendt, 1951, p. 298). From this perspective, dignity is not just an abstract principle, but the foundation on which the entire architecture of human rights rests. It expresses the recognition that every person, by virtue of their mere membership in humanity, is entitled to rights that must be respected and protected by the state and the international community.

The first major division of the concept of human dignity can be found in the work of George Kateb, who distinguishes between individual dignity – *status* (the equality of all persons) and the dignity of the human species – *stature* (the unique status of humanity in nature). For Kateb, "human dignity is an existential value. To recognise it means to recognise the truth of the identity of the person and of the species" (Kateb, 2011, pp. 28–113; 174–218). Ultimately, he advocates for a *democratic conception of dignity*, one that finds value not only in exceptional human achievements or genius, but also in ordinary existence — in the everyday acts of caring for nature and for others (Kateb, 2011, pp. 177–218).

Contemporary authors continue to compete in metaphorically describing human dignity. Thus, Aharon Barak, former president of the Supreme Court of Israel, called human dignity the "mother right" (Barak, 2014), while Sam Moyne emphasised that "human rights did not begin as claims against the state, but rather as part of the very definition of a state" (Moyne, 2010, pp. 26, 27).

But are all these doctrinal statements merely formal rhetorical exercises, or can the concept of dignity be genuinely transposed and effectively operationalised as a legal principle within the system of justice?

For Ronald Dworkin, "democracy can only exist where human dignity is respected", as it represents the moral foundation of the legal and political order (Dworkin, 2011, p. 320). However, the same author warns of the risk that the notion of dignity may lose its substance, becoming "flabby from overuse" in legal and political discourse (Dworkin, 2011, p. 3). In a similar vein, Stéphanie Hennette-Vauchez draws attention to the contemporary "infatuation" with the right to dignity, a phenomenon that risks emptying the concept of real content (Hennette-Vauchez, 2007). Moreover, as Izhak Englard notes, the abusive use of the term simply because it is "a very fashionable concept" can be just as harmful as its total absence from legal discourse (Englard, 2000, pp. 1903, 1923).

Therefore, if human dignity is not just a "unicorn" in legal terms, as James Ingram ironically puts it, but rather a "mule" – not only because it exists, but because it is capable

of functioning – it remains an open question for the law (Ingram, 2008, p. 402). However, regardless of what the future holds, it can be said, in full agreement with Andrea Pin, that the normative value of dignity has become "the springboard for further intellectual explorations of dignity, making the concept a good vehicle for legal change" (Pin, 2022, p. 71).

Moreover, for Jürgen Habermas, human dignity is not just a vague formula, but constitutes "the moral source of all fundamental rights". In his view, human rights carry a structural tension: they are universal in content but national in application. Habermas calls this tension a "realistic utopia" – "Human rights constitute a realistic utopia insofar as... they anchor the ideal of a just society in the institutions of constitutional states themselves" (Habermas, 2010, p. 476). Finally, Habermas discovers a "heuristic" function in human dignity, given that new rights arise from historical experiences of humiliation and degradation – "The experience of the violation of human dignity has performed, and can still perform, an inventive function in many cases" (Habermas, 2010, p. 467).

4. Human Dignity in European Union law

In European Union law, human dignity is enshrined in both primary and secondary legislation.

In primary legislation, human dignity appears both as *a fundamental value* and as *a subjective right*. Firstly, it is listed as a fundamental value in Article 2 of the Treaty on the European Union (hereinafter *TEU*), as amended by the Treaty of Lisbon, alongside freedom, democracy, equality, the rule of law and respect for human rights. Furthermore, the concept of human dignity influences the Union's external action, according to Article 21 TEU, and Article 49 TEU imposes on candidate countries the obligation to respect and promote these values, making the need to respect human dignity an effective criterion for accession to the Union.

Secondly, human dignity is enshrined as a fundamental right in Article 1 of the Charter of Fundamental Rights of the European Union (hereinafter *CFREU*), which states that "Human dignity is inviolable. It must be respected and protected". The preamble to the Charter also emphasises that the Union "is founded on the indivisible, universal values of human dignity, equality and solidarity". The placement of this article at the beginning of the Charter is no coincidence: the explanations relating to the Charter describe it as "the real basis of all fundamental rights".

Beyond primary legislation, secondary legislation of the European Union increasingly refers to human dignity, either as a general principle of interpretation or as a specific objective of protection. For example, in the field of personal data protection, Regulation (EU) 2016/679 (GDPR) states that "the processing of personal data should serve the person (...), respect the freedoms and dignity of the person".

As can be seen, human dignity is enshrined in EU law both as a legal value and as a subjective right. Indeed, as Erin Daly notes, human dignity has a dual nature, reflecting both a *value* and a *right*. As *a value,* it cannot be interpreted restrictively or ignored, expressing the recognition of distinctly human traits – reason, empathy, the capacity for self-development. As *a right,* dignity underpins the individual's claims against the state

and imposes on the latter the obligation to respect what is unique in human beings. From this perspective, fundamental rights can be seen as concrete manifestations of the principle of dignity, while the value of dignity is shaped and clarified through the practical application of these rights. In fact, human dignity viewed as a value and as a right represents a relationship between two powerful ideas. When these two ideas come together, "the effect is revolutionary" (Daly, 2021, p. IX).

5. Human dignity in the case law of the Court of Justice of the European Union

In order to approach any legal concept – especially one with multiple meanings and complex content, such as human dignity – it is imperative to establish a conceptual and methodological framework for analysis.

In this regard, we will follow the distinction proposed by Erin Daly in her work *Dignity Rights*, based on constitutional case law. The author shows that human dignity can be analysed both from the perspective *of the concrete object of protection* and from that of *its normative function*, thus reflecting its dual nature as *a value* and as *a right*. From this latter perspective, three distinct directions can be identified: dignity as *autonomy,* in the sense of the individual's freedom to develop their own life plan and to self-determine; dignity as *material well-being,* implying certain concrete material conditions of life; and dignity as *physical and moral integrity,* seen as an intangible value of the human being, protecting its integrity in all aspects. In short, these dimensions have been summarised in three maxims: "living as one wishes", "living well" and "living without humiliation". Although interdependent, addressing them separately facilitates a more nuanced understanding of the concept and a more precise application in practice (Daly, 2021, p. 26).

In the following, we will identify these three dimensions in the case law of the Court of Justice of the European Union.

5.1. Human dignity as the right to self-determination – living as one wishes

The most famous case concerning human dignity in the case law of the Court of Justice of the European Union is undoubtedly *Omega Spielhallen GmbH* (C-36/02). This case concerns the interpretation of the concept of human dignity from the perspective of a community's right to protect its fundamental values, particularly when these reflect the constitutional identity of the Member State. In its judgment of 14 October 2004 in the *Omega* case*,* the Court established human dignity as a "general principle of law" which "has a particular status as an independent fundamental right" (para. 34). In this regard, the Court recognised that prohibiting a commercial activity that contravenes the national conception of human dignity – in this case, laser tag games simulating the killing of a person – may be justified even in the context of the freedom to provide services. In this regard, the judgment refers to the concept of dignity as a collective form of autonomy and self-determination, through which a society asserts its right to protect the moral values it considers essential. This collective dimension of dignity can be transposed, at the individual level, into the right of each person to live their life according to their own convictions, which reflects the first of the three facets identified above: dignity as autonomy.

The *Omega* case not only introduces a profoundly human value, such as dignity, into a legal order dominated by economic considerations, but also highlights the European court's effort to ensure compatibility between different European cultural and constitutional traditions, without prejudice to the identity of any of them. At the same time, the court's intention to avoid any cultural offence can be discerned, respecting the moral sensibilities of the state importing the product in question (i.e. the *laser tag* game), without, however, ignoring the cultural context of the product's country of origin.

From a purely subjective perspective, perhaps the most illustrative case is the one that established, without actually naming it as such, the "right to be forgotten". In its judgment of 13 May 2014, delivered in the case of *Google Spain and Google Inc.* (C-131/12), the Court of Justice ruled, on the basis of Articles 7 and 8 of the Charter of Fundamental Rights, that Mario Costeja González – the applicant in the main proceedings, as the person concerned by publicly available information online – has the right to request that this information no longer be accessible to the general public through search engine results. This solution directly expresses the dimension of human dignity as autonomy, understood as the freedom of the individual to construct their own identity and to decide how it is perceived in the public sphere. Control over personal information thus becomes a modern form of self-determination, through which dignity acquires concrete content in the digital age.

Finally, the issue of human dignity could not be ignored in the situation of asylum seekers. In the joined cases *A. B., C.* (C-148/13, C-149/13 and C-150/13), the Court was confronted with refugees' claims that they would be persecuted on grounds of sexual orientation if deported, and had to assess whether and to what extent EU Member States could verify those claims without degrading the applicants' dignity. AG Sharpston emphasised that human dignity prohibits the use of intrusive means to detect a person's sexuality: applicants could not be "required to support their claims for refugee status in a manner that undermines their dignity or personal integrity" (para. 52). The CJEU followed the AG's opinion, placing even greater emphasis on human dignity. It formulated an extended use of dignity, both by excluding certain options (it excluded tests that require the claimant to perform acts of a sexual nature) and by insisting on an individualised assessment of the asylum seeker, in the sense of examining in concrete terms “the individual situation and personal circumstances of the applicant” (para. 57).

The CJEU's approach in cases concerning human dignity under this dimension of self-determination is clearly Kantian in inspiration. This approach essentially reflects the Court's respect both for the value of human dignity in itself, as enshrined in Article 2 TEU and Article 1 CDFEU, and for human dignity viewed in relation to the constitutional identity of the Member States, protected by Article 4(2) TEU. Through its rulings, the Court appears to grant Member States a certain margin of appreciation in defining and protecting their own fundamental values, as long as the exercise of this right does not contravene the general principles and objectives of the Union. In this way, cases such as *Omega* are no longer limited to their direct subject matter (*e.g.,* the freedom to provide services and its limits), but extend the Court's reasoning to how human dignity can function as a bridge between the European legal order and national traditions, seeking to reconcile the universalism of fundamental rights with the cultural and constitutional pluralism of the Union.

5.2. Human dignity as a right to well-being – living well

While in the *Omega* case human dignity is understood in the sense of autonomy and self-determination, another line of case law of the Court of Justice concerns its *material dimension*, closely linked to the concrete living conditions of the individual. From this perspective, dignity becomes the fundamental benchmark for the right to a decent standard of living and effective social protection within the Union. Koji Teraya has highlighted the importance of material well-being in a more mundane sense, asking rhetorically, "what good is freedom to a starving man?" (Teraya, 2001, p. 918).

For example, in the *Brey* case (C-140/12), the Court examined the compatibility of restrictions imposed by a Member State on the granting of social benefits to citizens of other Member States with the principle of free movement of persons. The European court emphasised that measures that would deprive a person of the minimum means of subsistence would be contrary not only to Union law but also to human dignity, as they would deny the individual the possibility of leading a life in accordance with his or her nature. In this regard, the CJEU stated that "the mere fact that a national of a Member State receives social assistance is not sufficient to show that he constitutes an unreasonable burden on the social assistance system of the host Member State" (para. 75).

However, it is interesting to note that this approach to dignity does not unilaterally protect vulnerable persons. As has been said, dignity can function as a "double-edged sword" (Pin, 2022, p. 62), as illustrated by the Court's reasoning in the landmark Dano case (C-333/13). The case concerned Romanian citizens who had settled in Germany for a long period of time. They benefited from the protection of the German social network as EU citizens, never sought employment, and subsequently requested the higher level of social protection afforded to other nationals under national law, which, under EU citizenship law, should have been extended to them as well. The German institutions refused to grant them these additional benefits, and a legal dispute ensued. The CJEU upheld Germany's refusal to grant additional social protection to EU citizens. In the CJEU's view, the fact that the applicants did not participate in the economic life of the country justified the difference in treatment between them and other EU residents. Since they were already granted basic protection, their dignity was preserved. But obliging countries to do more for EU citizens who do not wish to enter the labour market would have created "an unreasonable burden on the social assistance system of the host Member State" (para. 74). In other words, the CJEU saw the concept of dignity not only as a means of equalisation, but also as a *limit* beyond which the diversification of social services was not permitted.

This material dimension is naturally complemented by the third aspect of the concept – dignity as physical and moral integrity, which aims to protect the person from attacks on their physical and moral being.

5.3. Human dignity as the right to physical and moral integrity – living without humiliation

The third dimension of human dignity – dignity as physical and moral integrity –

concerns the protection of the person against any harm to their physical, moral or existential being. This is the most sensitive core of the concept, in which dignity is identified with the intrinsic value of human life itself.

In the case law of the Court of Justice, this perspective is illustrated in particular by cases concerning ethical or bioethical issues, where the boundary between scientific progress and the protection of the individual becomes fragile. Thus, in the *Brüstle* case (C-34/10), the Court ruled that the concept of "human embryo" in EU law "must be understood in a wide sense" in order to ensure "respect for human dignity" (para. 34), so that the "use of biological material originating from humans must be consistent with regard for fundamental rights and, in particular, the dignity of the person" (para. 32), in which context "all processes the use of which offends against human dignity are also excluded from patentability" (para. 33).

However, the best-known area in which the Court of Justice has firmly affirmed the dimension of dignity as physical and moral integrity is the provision of *detention conditions*. In cases such as *Aranyosi and Căldăraru* (joined cases C-404/15 and C-659/15), the Court ruled that the execution of a European arrest warrant may be suspended if there is a real risk that the requested person will be subjected to degrading treatment in the issuing state, contrary to Article 4 of the Charter. Thus, the CJEU emphasised that "as regards the prohibition of inhuman or degrading treatment or punishment, laid down in Article 4 of the Charter, that prohibition is absolute in that it is closely linked to respect for human dignity, the subject of Article 1 of the Charter" (para. 85). Thus, the Court recognised that human dignity imposes absolute limits on judicial cooperation in criminal matters when the individual's freedom would be exercised in an environment incompatible with respect for human beings. Therefore, in the context of detention conditions, the Court has transformed human dignity from an abstract principle into a practical criterion of protection, capable of limiting the exercise of state power even in areas of sovereign competence, such as the enforcement of criminal penalties.

Finally, perhaps the most eloquent example of the Court of Justice's case law on human dignity, even without expressly referring to it, is a recent case concerning refugees, known as *Kinsa* (C 460/23). In the *Kinsa* case*,* in its Grand Chamber judgment of 3 June 2025, the CJEU ruled that the EU law on refugee protection precludes criminal liability for the offence of facilitating the illegal crossing of the border by a mother who enters the territory of a Member State illegally, accompanied by her minor children in her care, in which context she submits an application for refugee protection on the grounds that she is threatened with death by her former partner in her country of origin. Thus, despite the express wording of Article 1(1)(a) of Directive 2002/90, which requires Member States without distinction to criminalise the conduct of facilitating illegal border crossing, the CJEU held that this is not applicable in such a case, where the person who has custody of the minors is themselves crossing the border illegally with them. In such a case, viewed from the perspective of human dignity, the Court held that the refugee had done nothing more than protect the right to life and integrity of the minors under his care (human dignity in terms of physical and moral integrity), their right to well-being by ensuring material living conditions (human dignity in terms of ensuring minimum material conditions), as well as the right to family life and the protection of the best interests of

the child (human dignity in terms of personal autonomy). A contrary interpretation, the CJEU pointed out, would result in a particularly serious interference with the rights of the individual to such an extent that it would undermine *the substance* of those fundamental rights within the meaning of Article 52(1) of the Charter (para. 52). However, as President Koen Lenaerts pointed out in his academic capacity, "the concept of the essence of a fundamental right – set out in Article 52(1) of the Charter of Fundamental Rights of the European Union – operates as a constant reminder that our core values as Europeans are absolute. In other words, they are not up for balancing" (Lenaerts, 2019, p. 779).

6. Conclusions

Overall, an analysis of the case law of the Court of Justice of the European Union shows that human dignity is not a static concept, but a living principle that structures and inspires the entire architecture of European fundamental rights. From this latter perspective, human dignity also has, as Habermas argues, a "heuristic function", through which new rights or unknown aspects of old fundamental rights are discovered, a context in which its *hermeneutic capacity* is revealed.

The three dimensions identified – *autonomy*, *material well-being*, and *physical and moral integrity* – are all *benchmarks in the application of the principle of legal interpretation regarding human dignity*. These are not mutually exclusive, but complement each other, outlining the image of an individual protected in all essential aspects of their existence.

From the freedom to self-determine and control one's own identity, to the guarantee of dignified living conditions and protection from physical and moral suffering or degradation, the concept of human dignity runs like *a red thread throughout the European legal order*.

Ultimately, human dignity can be defined as *the legal principle that recognises it both as a legal value and as a fundamental right, susceptible to an evolutive interpretation, encompassing the right to personal autonomy, which enables individuals to lead their lives according to their own choices, both in relation to themselves and within their community, the right to well-being, ensuring decent living conditions, and the right to physical and moral integrity, which excludes any form of humiliation, all these dimensions being interdependent and grounded in the fundamental notion that every person must be treated as an end in themselves, never merely as a means to an end*.

In this sense, human dignity remains the point of balance between freedom and responsibility, between the universalism of European values and the cultural diversity of the Member States.

Following Kant's formula of the categorical imperative, human dignity is not only the source of fundamental rights, but also a constant reminder that *law exists for the human being, not the human being for the law*.

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