Binding the EU to International Human Rights Law

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I. Introduction

For almost 40 years, human rights have received protection within the legal order of the European Union (EU). Despite the absence of any specific mandate in the Treaties, the European Court of Justice (ECJ) took the initiative of developing these rights as general principles of Community law as part of its attempt to establish the legitimacy of EC law and its claim to supremacy in the face of objections from the constitutional courts of certain Member States.¹ This development was subsequently endorsed by the other institutions of the EU (then still the European Communities),² and, following the Treaty of Maastricht on the European Union, by the Member States themselves.³ In 2000, the EU raised the visibility of the human rights acquis for its citizens by proclaiming a Charter of Fundamental Rights.⁴ The Charter has undoubtedly brought about a shift in the culture of the institutions of the Union. The European Parliament now systematically checks whether the legislative proposals on which it deliberates comply with the rights, freedoms, and principles of the Charter.⁵ The Commission announced its intention to verify the compatibility of its proposals with the Charter in 2001.⁶ In 2005, it adopted a Communication clarifying the methodology it

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