UDC 342.7:341.231.14:341.176(4-6ЄС)
DOI: 10.63341/naia-chasopis/3.2026.60

ISSN 2519-4216
E-ISSN 2519-4313

National legislation and EU standards for the protection of individual rights: An analysis of practical barriers

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Abstract
The purpose of the present research was to study the real obstacles for the implementation of national legislation harmonised with the standards of the European Union for the protection of personal rights and to detect problems in its application. The comparative legal method was applied to the implementation of the European Union rules on the protection of personal data and on anti-discrimination in Germany, France and Poland. The inquiry also examined cases pending before the Court of Justice of the European Union and the European Court of Human Rights concerning the right to privacy, the protection of personal data, equality and the right to an effective remedy. The transposition of standardised European Union regulations may occur in different ways, for instance, through decentralised institutional management (Germany), centralised administrative supervision (France), or a combination of administrative, ombudsman, and judicial procedures (Poland). The Google Spain and Schrems II rulings demonstrate that data protection is more than the right to be forgotten, but rather an evaluation of the degree of security of trans-border data transfers. The legal precedents in D.H. and Others, Thlimmenos and Biao show the evolution of strategies for indirect discrimination, unequal treatment and proportionality of constraints, whilst M.S.S. has shown that the formal choice of appeal is not a guarantee of its practical effectiveness. The proposals aim to improve the legislation in the following ways: guaranteeing independence of supervisory authorities guaranteeing voluntary and intelligible agreement to the processing of personal data improving appeal procedures and promoting judicial practices considering not only strict interpretation of laws but their effect on different groups of people

Keywords:
case law; personal data protection; combating discrimination; legal system; constitutional guarantees

Introduction
The safeguarding of personal rights is a primary focus in the evolution of national legal frameworks, which are continually adjusted to align with European Union (EU) norms. Nevertheless, during the adaptation process, other practical challenges arise, including discrepancies in the interpretation of EU legislation, the institutional characteristics of nations, the peculiarities of law enforcement, and the complexities involved in incorporating European standards into domestic legal frameworks. Examining the interplay

Article's History:
Received: 10.06.2026
Revised: 28.08.2026
Accepted: 29.09.2026
Published: 01.10.2026

Suggest Citation:
Proskuriakova, I. (2026). National legislation and EU standards for the protection of individual rights: An analysis of practical barriers. *Law Journal of the National Academy of Internal Affairs*, 16(3), 60-73. doi: 10.63341/naia-chasopis/3.2026.60.

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between national laws and EU regulations for individual rights enables the identification of elements influencing the effective safeguarding of fundamental rights and the persistent challenges.

The process of European integration is changing the ways in which legal systems and judicial practices are formed and how law enforcement is carried out, and so there is a growing interest in the relationship between national law and the system of protecting individual rights in the European Union. Modern scholars argue that the relation between European Union regulations and domestic law is a continuous process of harmonisation of legal systems. Thus, L. Spytska (2024) proved that the practice of the ECtHR contributes to the reworking of legal provisions, the emergence of judicial interpretation and the improvement of the system of protection of individual rights in the countries of Eastern Europe. Similarly, S. Rybchenko *et al.* (2024) believe that the adaptation of national legislation to European standards contributes to the strengthening of democratic institutions, the development of mechanisms for the protection of human rights and constitutional guarantees. Also studied the problem of correlation of international standards and national law in the setting of the right to strike Y. Simutina & M. Shumylo (2025). They found that European and international standards could serve as a guide when updating national labour legislation, thereby allowing for a better balance of the interests of employees, employers and the state. At the same time, they noted that uncertainty in the legal regulation of the right to strike may become a barrier to its effective implementation. Also, many modern researchers connect the development of legal regulation with digitalisation. For example, F. Palmiotto (2025) emphasises the complexity of the legislative process, in which the introduction of innovations must be combined with the constitutional principles of non-discrimination, transparency, human supervision and legal certainty. That is to say, the implementation of national legislation to new European standards implies a regular review and adjustment of the regulatory framework in connection with the changes in technologies.

In the area of digital labour relations A. Aloisi (2024) analysed the regulation of algorithmic management in the European Union and proved that current mechanisms must protect personal data, prevent discrimination and safeguard collective labour rights. In P.G. Chiara (2024) "[t]he possibilities of introducing a right to cybersecurity in European Union law", digital security is treated as a separate matter. As digital services explode, the author says, the question of how to ensure the security of information, personal data and privacy becomes that much more important. J.P. Quintais *et al.* (2023) dealt with the problem of the protection of fundamental rights in the digital sphere. In particular, they discussed how the terms of service of digital platforms may be used as a tool for ensuring fundamental rights within the framework of content moderation. The growing influence of private online platforms on the realisation of freedom of expression, the right to information and other human rights imposes the need for legal regulation that integrates state control and the responsibility of corporate entities.

The problem of the relationship between security and privacy has been studied by R. Anggriawan *et al.* (2022) within the framework of the protection of passenger name record data. European standards try to balance national security requirements with respect for the right to privacy. The practical use of such mechanisms demonstrates that the excessive expansion of state powers can lead to violations of fundamental rights, and the introduction of appropriate legislative guarantees is a key element of legal regulation. M. Jarota (2023) studied the use of artificial intelligence in work processes. According to the author, European regulations are aimed at minimising risks for employees, creating safe working conditions and the transparency of automated decisions, as well as ensuring the principle of oversight by humans.

However, the practical obstacles which hinder the interaction between the national legislation and the European Union standards in the protection of the individual rights have not been studied enough, notwithstanding the findings made by the authors cited above. There are gaps in research, for example, no comprehensive analysis of institutional, enforcement and regulatory impediments to effective integration of European standards into national legislation. The aim of the study was to investigate the overlap of barriers to protection of personal data and the ban on discrimination. The goals were: characterisation of European standards of personal data protection and non-discrimination; identification of complex barriers to the exercise of rights in Germany, France and Poland; formulation of recommendations for the improvement of Ukrainian legislation in the light of European experience.

Materials and Methods

The study employed a qualitative comparative design combining comparative legal analysis with the case study method. Judicial practice in Germany, France and Poland concerning personal data protection and non-discrimination was compared, and the findings were synthesised to identify ways of improving Ukrainian legislation in accordance with EU standards. The study examined European experience in developing and applying standards for the protection of individual rights, using Germany, France and Poland as case studies. These states were chosen due to differences in their legal traditions, different levels of development of national rights protection mechanisms and different experience in applying EU law. For Germany, the study examined Regulation (EU) No. 2016/679 of the European Parliament and of the Council "On the

Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation)"[1], as well as materials published by the Bundesbeauftragter für den Datenschutz und die Informationsfreiheit (Procedures for the cooperation…, n.d.) concerning the allocation of powers, cooperation procedures and the operation of supervisory authorities in the field of personal data protection. For France, the study considered Regulation (EU) No. 2016/679 of the European Parliament and of the Council, materials issued by the National Commission for Information Technology and Freedoms (CNIL) (2026) on its powers and practices, and materials published by the Defender of Rights (2026) concerning protection against discrimination and the promotion of equality. For Poland, the study examined Regulation (EU) No. 2016/679 of the European Parliament and of the Council and materials published by the Personal Data Protection Office (UODO) (n.d.) concerning the exercise of data subjects' rights, complaint procedures, the powers of the supervisory authority and the available administrative and judicial remedies.

The comparison was based on the following criteria: degree of approximation of national legislation to EU law, competence and independence of rights protection bodies, availability and efficiency of legal remedies, mechanisms of accountability of those responsible for violation of rights, as well as realisation of rights of individuals. The study, in the area of protection of personal data, examined the procedures for obtaining the consent to the processing of personal data, guarantees of the right to information, the right to erasure, requirements imposed on data controllers and the competence of national supervisory authorities. In the area of non-discrimination, the mechanisms for combating discrimination on the grounds of race or ethnic origin, sex, age, disability and other grounds and accessibility of complaint and court procedures were studied.

The case-study method was used to examine the case law of the Court of Justice of the European Union and the European Court of Human Rights. Particular attention was paid to the judgment of the Court of Justice of the European Union in Google Spain SL and Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González[2], which concerned the right to erasure and the relationship between the right to privacy and the right to information. The study also examined Data Protection Commissioner v. Facebook Ireland Limited and Maximillian Schrems[3], concerning international transfers of personal data and the safeguards required for their protection. These decisions illustrated the application of the right to the protection of personal data to the dissemination of information within the digital environment and to the cross-border transfer of personal data. In the field of non-discrimination, the study considered the case law of the Court of Justice of the European Union, including the approach reflected in the Resolution from the General Directorate of Labor of the Ministry of Economy, Finance and Employment "On the Registration, Filing and Publication of the Collective Agreement for the Home Care Sector Signed by the Business Organization, State Association of Home Care Service Entities (ASADE) and by the Trade Union Representation, UGT FSC Madrid, CC OO Dl Hábitat de Madrid, OSAD and CGT"[4]. This instrument was used to assess the relationship between formally equal regulation and its actual effects on different categories of individuals. The case law of the European Court of Human Rights was represented by Executief van de Moslims van België and Others v. Belgium[5], Semenya v. Switzerland[6] and Biao v. Denmark[7]. These cases involved issues related to various aspects of non-discrimination: indirect discrimination, the need to differentiate the treatment of people in different situations and the proportionality of restrictions. The case of M.S.S. v. Belgium and Greece[8], which is relevant to assessing the effectiveness of national

[1] Regulation (EU) No. 2016/679 of the European Parliament and of the Council "On the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation)". (2016, April). Retrieved from https://eur-lex.europa.eu/eli/reg/2016/679/oj.

[2] Judgment of the Court of Justice of the European Union in the Case No. C-131/12 "Google Spain SL and Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González". (2014, May). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62012CJ0131.

[3] Judgment of the Court of Justice of the European Union in the Case No. C-311/18 "Data Protection Commissioner v. Facebook Ireland Limited and Maximillian Schrems". (2020, July). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62018CJ0311.

[4] Resolution from the General Directorate of Labor of the Ministry of Economy, Finance and Employment "On the Registration, Filing and Publication of the Collective Agreement for the Home Care Sector Signed by the Business Organization, State Association of Home Care Service Entities (ASADE) and by the Trade Union Representation, UGT FSC Madrid, CC OO Dl Hábitat de Madrid, OSAD and CGT". (2024, April). Retrieved from https://noticias.juridicas.com/base_datos/Laboral/844232-convenio-colectivo-del-sector-ayuda-a-domicilio-ca-madrid-2024-2028-r-trabajo.html.

[5] Judgment of the European Court of Human Rights in the Case No. 16760/22 "Executief van de Moslims van België and Others v. Belgium". (2024, February). Retrieved from https://hudoc.echr.coe.int/eng?i=001-231227.

[6] Judgment of the European Court of Human Rights in the Case No. 10934/21 "Semenya v. Switzerland". (2025, July). Retrieved from https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-244348%22]}.

[7] Judgment of the European Court of Human Rights in the Case No. 38590/10 "Biao v. Denmark". (2016, May). Retrieved from https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-163115%22]}.

[8] Judgment of the European Court of Human Rights in the Case No. 30696/09 "M.S.S. v. Belgium and Greece". (2011, January). Retrieved from https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-103050%22]}.

remedies, was analysed separately. Thus, the combination of the above cases made it possible to study both the content of European standards and their practical application in the context of personal data protection, privacy, equality and effective legal protection. The synthesis method was used to systematise the findings from the analysis of European experience, legal instruments, institutional mechanisms and case law. Based on the above, basic recommendations were made for overcoming obstacles to bringing Ukrainian legislation into line with European Union standards.

Results

For Ukraine, the issue of alignment of national legislation with the standards of the European Union is not only a theoretical, but also a directly legal and institutional issue. As an EU candidate country, Ukraine needs to progressively adapt its national legislation to the *acquis communautaire*, including the area of privacy and personal data protection. The European Commission considers personal data protection to be a fundamental right guaranteed by Article 8 of the Charter of Fundamental Rights of the European Union[1]. The European model of protecting this right is a set of legal norms in which the General Data Protection Regulation (GDPR) plays a key role. For Ukraine, this means shifting from the regulation of separate aspects of information processing to a complete system of legal regulation, ensuring the lawfulness, transparency, purpose limitation, data minimisation, storage limitation and the functioning of effective supervisory mechanisms.

The rationale for learning from the EU Member States' experience is that the personal data protection system in Ukraine still needs to be fully modernised. The Council of Europe noted the need to adapt Ukrainian legislation to the challenges arising from the development of digital technologies, artificial intelligence, video surveillance, as well as the challenges of the war period and the scale of information processing online. It was noted that the national personal data protection system and the mechanisms of liability of violators are not sufficiently effective (European Commission, 2025). Therefore, the experience of Germany, France and Poland is important for Ukraine, not as a model to be copied mechanically, but as a source of mechanisms for the organisation of independent supervision, mechanisms for realising the rights of persons concerned, mechanisms for appeal and accountability for violations.

As a result of a comparative analysis of the practical application of European norms on the protection of the rights of an individual in Germany, France and Poland, both a common regulatory framework, formed mainly by Regulation (EU) No. 2016/679 of the European Parliament and of the Council[2], Convention for the Protection of Human Rights and Fundamental Freedoms[3], the Charter of Fundamental Rights of the European Union[4], and differences in the conditions for the implementation of these rights have been revealed. In all three states, fundamental rights relating to privacy, personal data protection, access to information, non-discrimination and effective legal protection are protected in accordance with European standards.

The German model of personal data protection and anti-discrimination policy has been formed in the context of the country's federal organisation, which determined the distribution of supervision functions between the federal supervision authority and the data protection authorities of the subject entities. Such a distribution of powers allows supervision authorities to get closer to specific spheres of public relations, to form specialised supervision authorities, but at the same time it can become an institutional barrier for the rights holder who needs to correctly determine the competent authority. Thus, according to Article 55 of Regulation (EU) No. 2016/679 of the European Parliament and of the Council[5], each supervision authority has competence within its own Member State territory, and Article 56 provides for the mechanism of determining the main supervision authority in cases of cross-border processing of personal data. This testifies that the European approach seeks to compensate for the complexity of the national distribution of powers with the help of the principle of "one-stop-shop", when the handling of a cross-border case will be the primary responsibility of a single authority. Hence, the rationale behind the German model of combining decentralisation with European coordination is clear: national-level oversight is specialist, whereas coordination at the supranational level is intended to avoid duplication. However, this decentralised system cannot eliminate the administrative burden on the complainant, since an incorrect determination of the competent authority

[1] Charter of Fundamental Rights of the European Union. (2000, December). Retrieved from https://www.europarl.europa.eu/charter/pdf/text_en.pdf.
[2] Regulation (EU) No. 2016/679 of the European Parliament and of the Council "On the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation)". (2016, April). Retrieved from https://eur-lex.europa.eu/eli/reg/2016/679/oj.
[3] Convention for the Protection of Human Rights and Fundamental Freedoms. (1950, November). Retrieved from https://www.echr.coe.int/european-convention-on-human-rights.
[4] Charter of Fundamental Rights of the European Union. (2000, December). Retrieved from https://www.europarl.europa.eu/charter/pdf/text_en.pdf.
[5] Regulation (EU) No. 2016/679 of the European Parliament and of the Council "On the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation)". (2016, April). Retrieved from https://eur-lex.europa.eu/eli/reg/2016/679/oj.

or the application of a complex cross-border procedure may entail additional time and informational costs for the right holder. Thus, the success of the German model is to be measured not simply by the number of supervisory authorities, but by the accessibility of the competent authority, the ease with which those authorities can cooperate, and the speed with which a finding of infringement results in its termination. Institutional specialisation, therefore, facilitates an individual's path to the competent authority, but can hinder such access if the allocation of competences is not clear to the rights holder. On the issue in question, Germany shows that decentralisation is not, by itself, an adequate measure to protect effectively. There must be clearly defined mechanisms for coordination procedures, accessible information about the responsibilities of each authority and mechanisms to prevent inconsistent administrative practice[1] (Procedures for the Cooperation…, n.d.).

The German model is particularly relevant in the cases of intersection of personal data protection and right to non-discrimination. For example, when an employer, insurer, medical facility or online service categorises an individual based on personal data, the privacy barrier also acts as an evidentiary barrier for individuals attempting to prove discrimination. A person may know that a bad result has happened, but may not be able to learn what data was used to make that decision or the algorithms used to make that determination. In such a situation the informational barrier inherent in the protection of personal data is compounded by the evidentiary obstacle of proving disparate treatment. The right of access to personal data provided by Article 15 of the GDPR is therefore important not only for privacy, but also, potentially, for establishing the reasons behind an adverse decision. Germany's model therefore illustrates the need to not regard access to information and protection against discrimination as different mechanisms but as interconnected components of the effective realisation of rights.

In contrast, France's model emerged under the influence of a highly centralised administrative tradition, hence the concentration of much of the supervisory function in the National Commission for Information Technology and Freedoms (2026). This allows for the uniformity of administrative practice, centralised control over the observance of the rules on personal data processing and the ability to take action against both individual and systemic problems. According to Article 57 of Regulation (EU) No. 2016/679 of the European Parliament and of the Council[2], the tasks of supervisory authorities include monitoring and enforcing the application of the GDPR, promoting public awareness, providing advice and dealing with complaints. Moreover, Article 58 gives them broad investigative and remedial powers. The centralised French model therefore follows the European principle that a supervisory authority should act not merely as a body that receives complaints, but as an active regulator. The practical effectiveness of this approach is illustrated by the activities of the CNIL. In 2025, it received 20,150 complaints, 10% more than in 2024, conducted 323 inspections and imposed 259 corrective measures, including 83 sanctions totalling EUR 486,839,500. The above figures underscore the high deterrent effect of the centralised model, since regulatory action targets not only the violator at hand, but also sets an example for others. However, the 20,150 complaints also highlight the other side of the coin: increasing the accessibility of the supervisory mechanism raises the caseload of the central institution, potentially leading to backlog and case prioritisation. In this respect, the French experience shows that centralisation contributes to the consistency and systematic nature of the implementation of the law, although its effectiveness is directly dependent on the availability of adequate resources to handle the increasing number of complaints.

It is especially relevant for the analysis of privacy and non-discrimination barriers that the French administrative oversight makes it possible to look not only at consequences for the person but also at organisations' practices, which could have the potential of affecting many individuals. Algorithmic profiling, for instance, can present an informational barrier if the individual is unaware of which factors have been taken into account during decision-making, and a discrimination barrier if the applied criteria put some specific groups at a practical disadvantage. A more administrative approach that focuses on examining the practices themselves may therefore prove more effective than a purely individualistic one in cases of systemic or recurrent infringements. However, the Defender of Rights (2026) still acts in defence of individuals from discrimination and encourages equal treatment. It processed 165,011 complaints, requests for information and referrals in 2025, an increase of 17% compared to 2024. France's experience illustrates that there is value in distinguishing between the supervisory function over data protection and the supervisory function over human rights in general, and allowing the relevant institutions to cooperate. With regard to the implementation of European standards, effective protection requires a possibility to act not only towards the data processing activity, but also to its discriminatory consequences.

Poland's model is a hybrid model that combines the administrative oversight of personal data processing

[1] Regulation (EU) No. 2016/679 of the European Parliament and of the Council "On the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation)". (2016, April). Retrieved from https://eur-lex.europa.eu/eli/reg/2016/679/oj.
[2] Ibidem,. (2016)

with access to courts and other human rights protection mechanisms. Unlike the centralised French model and the federal decentralisation of Germany, the Polish approach pays special attention to the steps taken in the exercise of a right. As set out in the guidelines published by the Personal Data Protection Office (n.d.), an individual must first contact the controller directly before complaining to the supervisory authority. The controller is required to reply to the request within one month. This time period may be extended by up to two additional months, where justified. The person can file a complaint with the UODO only if the data controller fails to comply with the request or gives an unsatisfactory response. On the one hand, this arrangement is designed to ensure that disputes are resolved quickly without the intervention of a public supervisory authority and to reduce the administrative load. On the other hand, it constitutes a hurdle in the procedural process, since an individual must interact with the data controller before being able to benefit from full administrative protection. The efficacy of the Polish model depends, therefore, not only on the existence of the UODO, but also on whether an individual can fulfil each of the stages prescribed, obtain a response within the statutory time limit, and, failing any response or an unsatisfactory response, move to the next level of protection.

Furthermore, Poland's framework possesses the notable advantage of integrating both administrative and judicial processes. The UODO states that if a violation is confirmed, the President of the Personal Data Protection Office can instruct the controller or processor to align their data processing practices with legal standards, while a civil court has the authority to adjudicate claims for compensation for both tangible and intangible harm. This division of powers reflects a functional distinction between restoring compliance and compensating for damage: the administrative authority is primarily responsible for stopping unlawful practices, whereas the court enables the affected individual to obtain compensation. However, for an individual, this means there are two separate avenues to be explored, and this may add to the time, information and monetary expenses involved. The procedural barrier thus meets the informational and evidentiary barriers at this point: an individual must know who they can contact, what claims can be made before each of these bodies and what evidence they need to provide to demonstrate an infringement. In terms of the issue in question, the Polish experience shows that multiple pathways to protection are effective only if the relationship between these pathways is clearly defined, and individuals have the possibility to move from one to the other without high additional costs.

A comparison of Germany, France and Poland shows that differences between their institutional models directly shape the barriers to the exercise of rights. Germany's decentralised system minimises the risk of excessive concentration of supervisory powers and allows for specialisation, but may reinforce institutional and informational barriers. France's centralised system encourages uniformity of practice in administrative decision-making and has a strong deterrent ef fect, but the heavy workload of the central authorities could give rise to procedural delays. The Polish combined model creates a wider range of remedies, encompassing both administrative and judicial mechanisms, but increases the procedural burden on the individual. At the same time, all three systems share a shift from the formal recognition of rights towards their practical exercise through access to information, the ability to lodge a complaint, examination of the case by a competent authority, cessation of the infringement and, where necessary, compensation for damage. This trend reflects Article 47 of the Charter of Fundamental Rights of the European Union[1], which guarantees everyone the right to an effective remedy before a tribunal, while Article 21 prohibits discrimination on specified grounds. Therefore, the success of European standards should not only be measured by whether the institutions exist or not, but also by the accessibility of the procedures, the promptness of their response, the consistency of the application of law, the enforceability of decisions, and the ability of such decisions to address the consequences of the infringement.

The analysis of the three national frameworks shows that the barriers to exercise the right to personal data protection and the challenges of fighting discrimination are interlinked. The different information on the processing of personal data makes it difficult to prove discrimination. Complex complaint procedures may impede the protection of both privacy and equality; and inadequate institutional coordination may delay responses to infringements of a crossborder or digital nature. Therefore, Ukraine should not adopt any single national model, but should draw on its functional strengths: the division of powers and specialisation of Germany, the systematic and preventive administrative control of the French, and the combination of administrative and judicial remedies in the Polish model. In doing so, the key criterion should be the reduction of the distance between the occurrence of an infringement and its successful resolution. In this way, the actual extent to which the right can be exercised will be the measure of effectiveness, rather than the formal conformity of the national system to European standards (Table 1).

[1] Charter of Fundamental Rights of the European Union. (2000, December). Retrieved from https://www.europarl.europa.eu/charter/pdf/text_en.pdf.

Table 1. Comparative characteristics of the approaches adopted by Germany, France and Poland to implementing European standards on personal data protection and non-discrimination

Criterion	Germany	France	Poland
Model of institutional oversight	A decentralised model involving federal and state-level data protection authorities that conduct supervision, examine complaints, carry out inspections and impose corrective measures and sanctions. Judicial mechanisms and specialised institutions also play an important role in combating discrimination	A centralised model of administrative oversight predominates. The CNIL plays the leading role in data protection, while the Defender of Rights provides institutional protection against discrimination and violations of the principle of equality	A combined model involving the personal data protection supervisory authority, the ombudsman and judicial institutions. Oversight is divided among several mechanisms according to the nature of the infringement
Accessibility of protection procedures	Individuals may apply directly to a supervisory authority, a court or another competent institution. The existence of federal and state-level authorities brings supervisory mechanisms closer to complainants, although it may make the allocation of responsibilities more difficult to understand	The procedures are relatively centralised and allow complaints to be lodged with specialised bodies. Particular attention is given to the availability of advice, the prevention of infringements and administrative enforcement	Protection is available through the supervisory authority, the ombudsman and the courts. The availability of several channels provides a broader range of remedies, but may also make it difficult to choose the appropriate mechanism
Allocation of responsibilities	Responsibilities are divided between the federal and state-level data protection authorities. A substantial proportion of discrimination disputes are resolved by the courts. This arrangement enables specialisation but makes the system multi-level	Powers are more concentrated at the national level. The CNIL is responsible for oversight in the field of personal data, while the Defender of Rights specialises in protecting rights and combating discrimination	Responsibilities are divided among the data protection authority, the ombudsman, administrative bodies and the courts. This structure provides comprehensive protection but requires the competent body to be clearly identified in each case
Practical mechanisms for responding to infringements	The available measures include inspections, orders to cease an infringement, restrictions or prohibitions on particular data-processing operations, administrative sanctions and judicial appeals. Discrimination cases involve judicial remedies and compensation mechanisms	The principal instruments include inspections, recommendations, orders, administrative sanctions and preventive measures. In discrimination cases, assistance may be provided in establishing an infringement and subsequently bringing the matter before a court	The available measures include administrative decisions, inspections, sanctions, the examination of complaints by the ombudsman and judicial remedies. Combining administrative and judicial remedies makes it possible to address both personal data infringements and discriminatory practices
Common problems in exercising rights	The main problems are the complexity of the multi-level system of responsibilities, the need to identify the appropriate authority and possible differences in practice between the federal and state levels	The principal problems are the considerable pressure on centralised supervisory mechanisms, the difficulty of processing a large number of complaints and the need to coordinate administrative and judicial remedies	Common problems include the fragmentation of protection mechanisms, the need for several institutions to cooperate and the difficulty of selecting the most appropriate response to a particular infringement
Strengths and weaknesses of the national model	Its strengths are an extensive supervisory structure, specialised authorities and the capacity to respond promptly to infringements. Its weaknesses are the complexity of the multi-level structure and the potential inconsistency of practice across jurisdictions	Its strengths are centralisation, specialisation and the considerable preventive potential of administrative oversight. A possible weakness is the concentration of a substantial volume of complaints and supervisory functions within central institutions	Its strength lies in combining administrative, ombudsman and judicial protection. Its weakness is the difficulty of coordinating the different mechanisms and the need for individuals to navigate several institutional channels
Potential application of the relevant experience in Ukraine	Ukraine could draw on Germany's experience in allocating responsibilities, specialising authorities, developing regional supervisory mechanisms and strengthening the capacity to respond promptly to infringements	France provides useful experience in centralised administrative oversight, preventive action, advisory support and specialised institutional protection against discrimination	Ukraine could benefit from combining supervisory, ombudsman and judicial mechanisms, thereby providing several complementary avenues for protecting individual rights

Source: compiled by the author based on Procedures for the cooperation of data protection supervisory authorities in Germany and Europe according to the GDPR (n.d.), Personal Data Protection Office (n.d.), National Commission for Information Technology and Freedoms (2026)

A comparison of the methods used in Germany, France and Poland indicates that, despite the fact that they are all based on European standards in terms of personal data protection and nondiscrimination, each one lays emphasis on different mechanisms of their practical application. The German method is characterised by a highly detailed, decentralised system of supervision with special emphasis placed on freely given consent, clear definition of the purpose of data processing and the possibility to address relevant authorities. The French method puts emphasis on transparency, the possibility of real choice for individuals and active intervention of the administration. It goes beyond merely reacting to violations and includes prevention of such violations by means of inspections, suggestions and binding instructions. In Poland, the supervisory

authority, ombudsman institutions and courts work together to protect individuals. Special emphasis is placed on consent in individual cases, the possibility of appeal and establishing a causal relationship between a discriminatory decision and a protected characteristic.

There are also differences in the way substantive equality is guaranteed. While Germany emphasises detailed institutional procedures and indirect evidence of discrimination, in France the focus is on active intervention of the administration and institutions guaranteeing human rights and on making rights accessible in practice. Poland combines administrative, ombudsman and judicial remedies. Germany thus has the most decentralised system of supervision, France uses a centralised and preventative system of enforcement, and Poland has a multi-channel system, combining several different institutional mechanisms. The case law demonstrates how European standards on personal data protection, privacy, access to information and non-discrimination apply to specific real-life situations.

The case law was analysed according to the types of barriers to the exercise of rights. This made it possible to uncover not only the jurisprudence of the courts, but also the concrete, practical challenges to exercising the rights to privacy, personal data protection, equality and effective remedy. The main obstacle in the Judgment of the Court in Case C-131/12[1] was an informational and technological barrier resulting from the constant possibility of accessing personal information in the digital world. The problem does not lie in the lack of a legally enforceable right to privacy, but in the difficulties associated with controlling information being spread, indexed or repeatedly displayed. The Court's approach underlines the necessity to take into account not only whether the publication of the information was lawful in the first place, but also the effects of it remaining digitally available. The line of reasoning makes it possible to balance the right to protection of personal data and privacy with the right of access to information in the public interest.

The Judgment of the Court in Case C-311/18[2] revealed cross-border and institutional barriers, as transfers of personal data between jurisdictions make it more difficult to ensure an equivalent level of legal protection. This barrier results from the disconnect between the mere existence of a mechanism allowing the transfer of personal data and the reality of how the recipient can control further processing of the information or challenge the illegality of its access. In effect, the Court shifted the assessment from the formal existence of contractual safeguards to the actual level of protection afforded to individual rights in the destination country. Compared with Google Spain, this approach expands the informational aspect of the barrier into the international context, showing that the legal process itself can generate cross-jurisdictional obstacles to the right to personal data protection.

In the Resolution from the General Directorate of Labor of the Ministry of Economy, Finance and Employment "On the registration, filing and publication of the collective agreement for the home care sector signed by the business organization, State Association of Home Care Service Entities (ASADE) and by the trade union representation, UGT FSC Madrid, CC OO Dl Hábitat de Madrid, OSAD and CGT"[3], the principal issue was a regulatory and procedural barrier. This barrier arises because the exercise of labour and social rights depends on the procedures governing their legal recognition, registration, application and administrative enforcement. In this instance, the formal recognition of a right is not sufficient to ensure that it can be exercised in practice, as the outcome depends on procedural coherence and the capacity of the relevant institutions to ensure proper implementation.

The European Court of Human Rights dealt with the interplay between freedom of religion and the prohibition of discrimination in Case of Executief van de Moslims van België and others v. Belgium[4] with reference to the statutory ban on slaughter of animals without prior stunning in the Flemish and Walloon Regions in Belgium. The Court found no violation of Article 9 of the Convention, read together with Article 14. It concluded that the Belgian authorities had acted within their margin of appreciation, the measure pursued the legitimate objective of animal welfare and the measure was proportionate.

In Case of Semenya v. Switzerland[5], the European Court of Human Rights considered procedural safeguards and the protection of an athlete's rights in connection with rules governing the participation of

[1] Judgment of the Court of Justice of the European Union in the Case No. C-131/12 "Google Spain SL and Google Inc. v. Agencia Española de Protección de Datos (AEPD) and Mario Costeja González". (2014, May). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A62012CJ0131.

[2] Judgment of the Court of Justice of the European Union in the Case No. C-311/18 "Data Protection Commissioner v. Facebook Ireland Limited and Maximillian Schrems". (2020, July). Retrieved from https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:62018CJ0311.

[3] Resolution from the General Directorate of Labor of the Ministry of Economy, Finance and Employment "On the Registration, Filing and Publication of the Collective Agreement for the Home Care Sector Signed by the Business Organization, State Association of Home Care Service Entities (ASADE) and by the Trade Union Representation, UGT FSC Madrid, CC OO Dl Hábitat de Madrid, OSAD and CGT". (2024, April). Retrieved from https://noticias.juridicas.com/base_datos/Laboral/844232-convenio-colectivo-del-sector-ayuda-a-domicilio-ca-madrid-2024-2028-r-trabajo.html.

[4] Judgment of the European Court of Human Rights in the Case No. 16760/22 "Executief van de Moslims van België and Others v. Belgium". (2024, February). Retrieved from https://hudoc.echr.coe.int/eng?i=001-231227.

[5] Judgment of the European Court of Human Rights in the Case No. 10934/21 "Semenya v. Switzerland". (2025, July). Retrieved from https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-244348%22]}.

female athletes with certain sex characteristics. In its Grand Chamber judgement of 10 July 2025 the Court held that there had been a breach of Article 6 § 1 of the Convention, on the ground that the judicial review exercised by the national courts had been inadequate. It also declared the complaints under Articles 8 and 13 and Article 14 read together with Article 8 inadmissible for failure to disclose a sufficient territorial connection with Switzerland. This case illustrates the connection between procedural hurdles, access to an effective remedy and discrimination.

In Biao v. Denmark[1], the Court identified an institutional and discrimination-related barrier arising from the application of differentiated legal rules and the need to examine whether they were objectively justified and proportionate. The Court's approach demonstrated that an equality assessment must consider not only the formal purpose of a restriction, but also its actual impact on particular categories of people. Whereas Thlimmenos v. Greece focused on the importance of recognising differences in individual situations, Biao v. Denmark has a stronger institutional component in that the obstacle arose from the legislative system and the manner in which the authorities applied it. However, both cases utilise the same approach to analysing the question of equality, namely by assessing equality in terms of the real-life effects of the regulatory framework.

In the case of M.S.S. v. Belgium and Greece[2], the Court identified the procedural and institutional barriers preventing access to an effective remedy. The central problem was the limited practical capacity of the existing mechanisms to provide timely and effective redress for violations of rights. In this case, the Court laid down the principle that the existence of a formal legal remedy is not enough if it is not possible for the applicant to effectively use that remedy in practice or achieve an effective result with it. This reasoning applies to other categories of barriers as well. Even if there is information and evidence to prove the infringement of a right, and the right itself is recognised in law, the right will not be exercised if the institutional framework does not guarantee its effective protection.

An analysis of the above cases demonstrates that there are intersectional barriers to the exercise of rights, because one kind of barrier tends to become intertwined with another. In Google Spain, the informational barrier also has a technological aspect, while in Schrems, it is combined with crossborder and institutional aspects. The evidentiary barrier in D.H. and Others is closely connected to the challenge of proving indirect discrimination. In Thlimmenos and Biao, even where there is no formal discriminatory norm, the regulatory and institutional mechanism itself can present obstacles to the achievement of substantive equality. In M.S.S., the procedural deficiency is exacerbated by the institutional inadequacy so that the individual is actually deprived of any real possibility of enjoying legal protection. Therefore, a unifying element in the above case law is that the assessment of a right shifts from its formal existence to its practical realisation, effectiveness, evidentiary aspect, proportionality and institutional support. Consequently, the national systems of rights protection would have to address all regulatory, procedural, informational, evidentiary and organisational issues simultaneously. Removing only one barrier does not ensure the effective exercise of a right when other interconnected restrictions remain.

The case law mentioned above may play an important role in a systematic way of interpretation and protection of the rights of individuals in the European legal order. The judgements show that the guarantee of the protection of personal data and the right to privacy must be understood in the light of the individuals' real control over data concerning them, the lawfulness of the processing and transfer of data and the need to strike a balance between private interests and the public interest in access to information. In addition, the right to equality means more than just prohibiting direct discrimination and requires that consideration be given to the effects of existing laws on particular groups of people and the justification for any distinction. The effectiveness of legal protection must be assessed differently. The mere existence of a formal procedure does not ensure its effectiveness. It must be available and capable of delivering good redress in the face of rights violations. To summarise, these cases have established criteria for the review of domestic law and its implementation regarding proportionality, non-discrimination, the existence of real-life legal protections and the protection of fundamental human rights in practice.

The comparative analysis of European standards and Ukrainian legislation identified several areas in which further harmonisation is required in the fields of personal data protection and nondiscrimination. Regulation (EU) No. 2016/679 of the European Parliament and of the Council[3] is a comprehensive act on the protection of privacy, which establishes an independent supervisory authority, sets out requirements on the data subject's consent, information on the processing of personal data, the rights to access, erase and restrict

[1] Judgment of the European Court of Human Rights in the Case No. 38590/10 "Biao v. Denmark". (2016, May). Retrieved from https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-163115%22]}.
[2] Judgment of the European Court of Human Rights in the Case No. 30696/09 "M.S.S. v. Belgium and Greece". (2011, January). Retrieved from https://hudoc.echr.coe.int/eng#{%22itemid%22:[%22001-103050%22]}.
[3] Regulation (EU) No. 2016/679 of the European Parliament and of the Council "On the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation)". (2016, April). Retrieved from https://eur-lex.europa.eu/eli/reg/2016/679/oj.

personal data processing, and ensures the right to effective administrative and judicial remedies for the protection of individual rights. At the same time, the analysis of the Ukrainian legislation shows some institutional, procedural, informational and evidentiary barriers that hinder the effective realisation and control of the protection of personal data.

The experience of the European Union Member States shows various models of implementation of the GDPR in practice. In France, the work of the National Commission for Information Technology and Freedoms (2026) shows the efficiency of an independent supervisory authority with powers to monitor, advise, enforce and inform the public. The CNIL focuses in particular on the transparency of digital services, the supervision of automated data processing and the accessibility of the means of realisation of the rights of the data subject. Similarly, the experience of Poland's Personal Data Protection Office (n.d.) shows the importance of the combination of administrative supervision, an efficient complaints procedure, public information and cooperation with the judiciary. Such integration helps to make the enforcement of the personal data protection legislation more effective.

An analysis of the European experience facilitated the recognition of key domains where Ukraine's national regulatory system may be enhanced. The primary objectives include strengthening the autonomy and institutional capabilities of the oversight entity, refining the process for acquiring and rescinding consent for personal data handling, ensuring transparency in data processing information, and establishing robust mechanisms to uphold the rights of access, deletion, and limitation of processing. Additional priorities encompass enhancements to the protocols for administrative and judicial appeals, fortification of safeguards against indirect discrimination, elucidation of the regulations concerning the burden of proof, establishment of equality for individuals with disabilities, uniform application of the jurisprudence from the Court of Justice of the European Union and the European Court of Human Rights, advancement of internal audit and risk management frameworks, and the formulation of an all-encompassing system for the safeguarding of human rights predicated on personal data protection and non-discrimination strategies. These measures should comply with Regulation (EU) No. 2016/679 of the European Parliament and of the Council[1] and the practice of European supervisory authorities (National Commission for Information Technology and Freedoms, 2026; Personal Data Protection Office, n.d.).

Therefore, the harmonisation of the national legislation with the European Union standards on the protection of individual rights must mean not only the simultaneous improvement of the regulatory framework, but also the strengthening of the guarantees of the independence of the supervisory authorities, the detailing of the anti-discrimination procedures, the harmonisation of the national case-law with the legal positions of the European courts, the simplification of the access to the legal remedies and the introduction of the internal mechanisms of rights compliance within the organisations. This approach forms the basis for the practical implementation of the European standards on the protection of personal data, non-discrimination and the effective protection of fundamental rights.

Discussion

The correlation of the national legislation and the European Union standards on the protection of individual rights is defined not only by the level of regulatory alignment but also by the effectiveness of the relevant legal mechanisms in practice. The findings indicate that legislative amendments alone do not resolve all the problems stemming from the inconsistent interpretation of the legal rules, the uneven preparedness of the institutions, the difficulties in implementing new legal approaches and the continuous need for updating the mechanisms for the realisation of fundamental rights. These findings are in line with those of M.L. Radović (2023), who researched the relationship between the rule of law, fundamental rights and the principle of primacy of European Union law. The author noted that the efficiency of protection of individual rights depends on the coherence of the legal system and the coherent application of the European legal principles. Practical problems arise in ensuring that the legal rules are accessible to citizens as well as to law enforcement bodies. This conclusion is consistent with the findings of A. Nishikawa-Pacher & H. Hamann (2023), who examined access to national legislation via official legal databases. The possibility of effective protection of individual rights is determined by the openness of the legislation and the accessibility of the legal tools. No matter how good the regulations are, they will not bring the desired result if there are no available ways of using the legislative information.

The need for improving the national legislation has also been substantiated, which is consistent with the findings of A. Uka (2021) in the study of the evolution of the legal system of the European Union in the sphere of fundamental rights. The author noted that the development of European legislation is characterised by dynamism and states must constantly adapt their legal mechanisms to new requirements. However, problems occur because changes in legislation are ongoing, and

[1] Regulation (EU) No. 2016/679 of the European Parliament and of the Council "On the Protection of Natural Persons with Regard to the Processing of Personal Data and on the Free Movement of Such Data, and Repealing Directive 95/46/EC (General Data Protection Regulation)". (2016, April). Retrieved from https://eur-lex.europa.eu/eli/reg/2016/679/oj.

law enforcement practices need to be adapted accordingly. The same conclusion is drawn by J. Gerards (2023) who argued that fundamental rights constitute a closely interrelated system of international and European protection. This reasoning is in favour of the thesis that it is possible to achieve a proper degree of protection of individual rights only if all the levels of legal regulation co-operate. This result is also in line with the conclusions of T. Mast & C. Ollig (2023), who stated that the integration of fundamental rights into the legal framework of the European Union must be accompanied by the consistent development of legislation, since fragmented legal recognition cannot guarantee the uniform level of protection. The effectiveness of harmonisation depends not only on the content of legal provisions, but also on the degree to which they interact as a coherent system. This is in line with the findings of S. Imamović *et al.* (2024) in their research on the possibilities of developing the EU's fundamental rights system. They said that future progress depends on the creation of more flexible legal mechanisms. The data are also consistent with the results of L. Munaretto (2024), who analysed the idea of the possible standard within the framework of fundamental rights in Europe. The author said that a country must have legal and institutional capacity to realise certain rights. This is the reason why many protection tools are ineffective, even after the harmonisation of legislation. A. Petti *et al.* (2025) also raised the same argument, seeing the protection of fundamental rights as the result of cooperation between different legal systems in Europe. The approach they followed shows that overcoming practical barriers requires a comprehensive coordination between different sources of law and the institutions in charge of their implementation. The conclusion above is supported by the research results of P. Bárd *et al.* (2025), who argued that the European Union founding treaties should be revised to enhance the protection of the fundamental values in the Member States. Legal protections are only effective if there are effective means to ensure compliance with them. The legal recognition of rights must therefore be accompanied by effective mechanisms for monitoring compliance. B. Tubić (2024) also described the system of human rights protection in the European Union as multi-layered, emphasising the interaction of European and national legal mechanisms. The success of such a system depends on all institutions acting together. Case law remains an important element of the procedure for harmonising European standards with national legislation. C. Heri (2024) reached the same conclusion and examined how the European Court of Human Rights legitimises the protection of rights through the principle of human dignity and balances judicial restraint with the need to ensure an adequate level of legal protection. The author emphasised that new problems can be solved by case law. These results indicate that the harmonisation of laws needs not only changes in regulations, but also the establishment of democratic forms of governance. This conclusion corresponds to the results of the research of T. Ceurremans & E. David (2025) who analysed instruments for the prevention of democratic regressions in candidate countries for European Union membership. They showed that respect for democracy is a prerequisite for effective protection of fundamental rights. A similar conclusion was reached by A. Ward (2025) who looked at options for modernising Article 51 of the Charter. A more precise definition of the scope of its application would help to guarantee a consistent level of human rights protection.

The protection of fundamental rights is also linked to the functioning of bodies responsible for the management of external borders. Similar results were shown by E. Omičević & S.F. Nicolosi (2025), who analysed mechanisms for monitoring compliance with fundamental rights in the management of external borders of the European Union. The effectiveness of legal protection depends on the ongoing surveillance of the activities of the relevant institutions. The findings underscore the need for legislative measures to be complemented with effective monitoring mechanisms. These conclusions are in line with the findings of the study by H. Hogan (2023) who analysed the origin and evolution of Article 16 of the Charter of Fundamental Rights of the European Union, the freedom to conduct a business. The research showed that the protection of economic rights must be balanced against other fundamental rights. Legal regulation is not necessarily more effective when the category of fundamental rights is overused. This result is in line with the research of M. Senftleben (2024), who analysed the case law of the Court of Justice of the European Union on copyright and trade mark law. The excessive constitutionalisation of certain legal relations does not always bring the desired result. These results show the need for balancing fundamental rights and sector-specific regulations. The findings are also in line with the work of J. Chamberlain (2022) who studied the risk-based approach to the regulation of artificial intelligence by the European Union. Therefore, the author stressed that legal mechanisms must ensure that fundamental rights are protected at a level commensurate with the development of innovation. Privacy is still one of the main areas of interaction between national legislation and European Union standards. This finding is in line with the results of U. Kohl (2023) on the right to be forgotten under the law of data protection. This right must be properly balanced in its exercise with privacy, freedom of information and the public interest. The effectiveness of the personal data protection is determined not only by the content of the legal norms, but also by the way they are applied in practice.

The findings therefore confirm that effective interaction between national legislation and European Union standards on the protection of individual rights

depends on a coherent regulatory framework, consistent enforcement and the proper operation of institutional mechanisms. Overcoming the above-mentioned barriers will require a range of solutions, including legislative improvements, the establishment of monitoring mechanisms and balancing fundamental rights with the public interest and technological changes.

Conclusions

The study identified three interrelated groups of barriers: institutional, procedural and organisational. Institutional barriers related to the deficiencies in the legal and regulatory framework, the unclear distribution of competences between various bodies and insufficient cooperation between institutions. As a result, the stability and predictability of rights implementation mechanisms were reduced. Procedural barriers resulted from complex administrative procedures, the number of steps involved, documentation requirements and the length of processing times. In consequence, the rights that were formally guaranteed could not always be implemented in a timely manner. Organisational barriers included inadequate coordination between institutions, a lack of staff and resources, ineffective internal communication mechanisms, and insufficient access to information. The main distinction between these categories is the level at which they occur. Institutional barriers exist at the level of the system and the legal framework; procedural barriers exist in the course of performing certain actions established by law; and organisational barriers exist in the operational activities of specific organisations. Their combined impact is manifested in additional time and administrative expenses, a decline in the availability of protection mechanisms, and a discrepancy between the formal recognition of rights and the ability to exercise them in practice.

The study of case law confirmed that the meaning of the European standards is formed through the court's interpretation. It was also found that barriers to the exercise of rights are interrelated, such that informational, procedural, institutional and discriminatory barriers mutually reinforce each other. Lack of knowledge of how the data is used and what criteria are taken into account in making the decision complicates the identification of violations. And yet, barriers in the form of inaccessibility of the appeal process, lack of opportunities to obtain evidence and the lack of an effective response from the institutions reduce the possibility of obtaining redress. The mere formal recognition of a right or the establishment of a procedure by law will not guarantee the effectiveness of that right if the individual cannot access the relevant mechanism in practice, has their case heard in a reasonable time, can provide the necessary evidence, or obtain an effective remedy for the consequences of an infringement. The overall tendency is to move from determining the existence of legal protection mechanisms to determining their effectiveness and accessibility and the ability to protect against discriminatory consequences. Without eliminating one type of barrier, one does not always achieve the full exercise of the right, since there may be other procedural, informational or institutional barriers.

This shows that Ukrainian legislation must be brought into line with the European Union legislation not only in terms of updating the normative framework, but also by eliminating the barriers to the exercise of rights. Thus, the identified priorities are the following: increasing the independence of the supervision bodies, ensuring the transparency and freedom of consent to the processing of personal data, streamlining the appeal process, and forming judicial practice on indirect discrimination and on the evaluation of the actual consequences of the application of legal norms. Germany, France and Poland all showed that a right cannot be exercised effectively if there are no accessible administrative and judicial procedures, no adequate institutional oversight or no means of responding to infringements in a timely manner. The study's findings were limited by the choice of just three European Union Member States, the specific legal sources selected, and the individual cases chosen. As such, they do not represent the entire spectrum of European models for the protection of individual rights.

Further research should expand the scope of the comparative analysis to other EU Member States and Ukraine, and should more deeply analyse the application of standards on the protection of personal data, privacy and non-discrimination in the context of digitalisation and new technologies.

Acknowledgements

None.

Funding

The study was not funded.

Conflict of Interest

None.

References

[1] Aloisi, A. (2024). Regulating algorithmic management at work in the European Union: Data protection, non-discrimination and collective rights. *International Journal of Comparative Labour Law and Industrial Relations*, 40(1), 37-70. doi: 10.54648/ijcl2024001.

[2] Anggriawan, R., Salim, A.A., Gunawan, Y., & Arumbinang, M.H. (2022). Passenger name record data protection under European Union and United States agreement: Security over privacy? *Hasanuddin Law Review*, 8(2), 95-110. doi: 10.20956/halrev.v8i2.2844.

[3] Bárd, P., Kochenov, D.V., Pech, L., & Wouters, J. (2025). Treaty changes for the better protection of EU values in the Member States. *European Law Journal,* 30(4), 499-514. doi: 10.1111/eulj.12534.
[4] Ceurremans, T., & David, E. (2025). Countering democratic backsliding in (future) EU member states: Article 10(3) TEU unlocked. *European Law Journal,* 30(4), 515-533. doi: 10.1111/eulj.12544.
[5] Chamberlain, J. (2022). The risk-based approach of the European Union's proposed artificial intelligence regulation: Some comments from a tort law perspective. *European Journal of Risk Regulation*, 14(1), 1-13. doi: 10.1017/err.2022.38.
[6] Chiara, P.G. (2024). Towards a right to cybersecurity in EU law? The challenges ahead. *Computer Law & Security Review*, 53, article number 105961. doi: 10.1016/j.clsr.2024.105961.
[7] Defender of Rights. (2026). *2025 annual activity report*. Retrieved from https://www.defenseurdesdroits.fr/rapport-annuel-dactivite-2025-1107.
[8] European Commission. (2025). *Commission staff working document: Ukraine 2025 report*. Retrieved from https://enlargement.ec.europa.eu/document/download/17115494-8122-4d10-8a06-2cf275eecde7_en?filename=ukraine-report-2025.pdf.
[9] Gerards, J. (2023). *Fundamental rights: The European and international dimension*. Cambridge: Cambridge University Press. doi: 10.1017/9781009255721.
[10] Heri, C. (2024). Deference, dignity and "theoretical crisis": Justifying ECtHR rights between prudence and protection. *Human Rights Law Review*, 24(1), article number ngad032. doi: 10.1093/hrlr/ngad032.
[11] Hogan, H. (2023). The origins and development of Article 16 of the Charter of fundamental rights. *European Law Open*, 2(4), 753-783. doi: 10.1017/elo.2023.53.
[12] Imamović, S., Börjedal, E., & Di Franco, E. (2024). The future of EU fundamental rights. *Maastricht Journal of European and Comparative Law,* 31(2), 137-146. doi: 10.1177/1023263X241290470.
[13] Jarota, M. (2023). Artificial intelligence in the work process. A reflection on the proposed European Union regulations on artificial intelligence from an occupational health and safety perspective. *Computer Law & Security Review,* 49, article number 105825. doi: 10.1016/j.clsr.2023.105825.
[14] Kohl, U. (2023). The right to be forgotten in data protection law and two western cultures of privacy. *International & Comparative Law Quarterly*, 72(3), 737-769. doi: 10.1017/S0020589323000258.
[15] Mast, T., & Ollig, C. (2023). The lazy legislature: Incorporating and horizontalising the Charter of fundamental rights through secondary union law. *European Constitutional Law Review*, 19(3), 462-486. doi: 10.1017/S1574019623000238.
[16] Munaretto, L. (2024). Fundamental rights and limited possibilities: The proviso of the possible in European fundamental rights doctrine. *German Law Journal*, 25(2), 185-209. doi: 10.1017/glj.2023.114.
[17] National Commission for Information Technology and Freedoms. (2026). *The CNIL's missions*. Retrieved from https://www.cnil.fr/en/cnil/cnils-missions.
[18] Nishikawa-Pacher, A., & Hamann, H. (2023). Is every law for everyone? Assessing access to national legislation through official legal databases around the world. *Oxford Journal of Legal Studies*, 43(2), 298-321. doi: 10.1093/ojls/gqac032.
[19] Omičević, E., & Nicolosi, S.F. (2025). Righting wrongs at home: The potential of domestic judicial remedies in determining and allocating responsibility for human rights violations in European Integrated Border Management. *European Constitutional Law Review*, 21(4), 555-587. doi: 10.1017/s1574019625100837.
[20] Palmiotto, F. (2025). The AI Act roller coaster: The evolution of fundamental rights protection in the legislative process and the future of the regulation. *European Journal of Risk Regulation*, 16(2), 770-793. doi: 10.1017/err.2024.97.
[21] Personal Data Protection Office. (n.d.). *You have the right to lodge a complaint with the President of the Personal Data Protection Office*. Retrieved from https://uodo.gov.pl/en/680/1402.
[22] Petti, A., Hillion, C., & Bekkedal, T. (2025). Fundamental Rights protection in Europe: Shedding light on a system of interrelated regimes. *Maastricht Journal of European and Comparative Law,* 32(2), 103-110. doi: 10.1177/1023263X251342875.
[23] Procedures for the cooperation of data protection supervisory authorities in Germany and Europe according to the GDPR. (n.d.). Retrieved from https://surl.li/uofzhu.
[24] Quintais, J.P., Appelman, N., & Fathaigh, R.Ó. (2023). Using terms and conditions to apply fundamental rights to content moderation. *German Law Journal*, 24(5), 881-911. doi: 10.1017/glj.2023.53.
[25] Radović, M.L. (2023). The interaction between the rule of law, fundamental rights, and the supremacy of EU law. *Central European Journal of Comparative Law*, 4(2), 117-142. doi: 10.47078/2023.2.117-142.
[26] Rybchenko, S., Kosytsia, O., Pluhatar, T., Chalchynskyi, V., & Medvid, F. (2024). The impact of globalisation on constitutional processes in Ukraine: Social consequences of the adaptation of legislation of Ukraine to European standards. *Social & Legal Studios*, 7(3), 213-222. doi: 10.32518/sals3.2024.213.

[27] Senftleben, M. (2024). The unproductive "overconstitutionalization" of EU copyright and trademark law: Fundamental rights rhetoric and reality in CJEU jurisprudence. *IIC – International Review of Intellectual Property and Competition Law*, 55, 1471-1514. doi: 10.1007/s40319-024-01527-8.
[28] Simutina, Y., & Shumylo, M. (2025). International and European protection of the right to strike and its impact on the national law: The case of Ukraine. *International Journal of Comparative Labour Law and Industrial Relations*, 41(3/4), 223-246. doi: 10.54648/ijcl2025014.
[29] Spytska, L. (2024). The impact of the European Court of Human Rights judgements on the development and transformation of Ukrainian law. *Social & Legal Studios*, 7(4), 9-17. doi: 10.32518/sals4.2024.09.
[30] Tubić, B. (2024). Human rights protection in the European Union. *Central European Journal of Comparative Law*, 5(2), 311-326. doi: 10.47078/2024.2.311-326.
[31] Uka, A. (2021). The past, present and future of the EU legal framework on fundamental rights. *Horizons – International Scientific Journal,* 29(2), 59-67. doi: 10.20544/horizons.a.29.2.21.p06.
[32] Ward, A. (2025). From copper-fastening competence to workable structural rule: What might a modernized Article 51 of the Charter look like? *Cambridge Yearbook of European Legal Studies,* 26, 82-105. doi: 10.1017/cel.2025.10020.

Національне законодавство і стандарти ЄС у сфері захисту прав особи: аналіз практичних бар'єрів

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Анотація
Метою дослідження було вивчення реальних бар'єрів функціонування національного законодавства зі стандартами Європейського Союзу у сфері захисту прав особи та виявлення практичних складнощів їх реалізації. Для цього було застосовано порівняльно-правовий метод, використаний для зіставлення національних підходів Німеччини, Франції та Польщі до реалізації європейських стандартів захисту персональних даних і недопущення дискримінації, та аналізу судових справ Суду Європейського Союзу, Європейського суду з прав людини щодо захисту права на приватність, персональних даних, рівності й ефективного правового захисту. Порівняння продемонструвало, що спільні стандарти Європейського Союзу можуть реалізовувати через різні моделі: від децентралізованого інституційного контролю в Німеччині до централізованого адміністративного нагляду у Франції та комбінованого поєднання адміністративних, омбудсманських і судових механізмів у Польщі. Аналіз судових справ Google Spain і Schrems II засвідчив, що захист персональних даних охоплює не лише право на видалення інформації, а й необхідність оцінки реального рівня гарантій під час її транскордонної передачі. Практика у справах D.H. and Others, Thlimmenos та Biao продемонструвала розвиток підходів до непрямої дискримінації, диференційованого ставлення та перевірки пропорційності обмежень, натомість справа M.S.S. засвідчила, що формальна наявність процедури оскарження не гарантує її ефективності. Для вдосконалення законодавства запропоновано орієнтуватися на посилення незалежності наглядових інституцій, забезпечення реальної добровільності та прозорості згоди на обробку даних, розвиток дієвих процедур оскарження і формування судової практики, яка враховує не лише формальний зміст правових норм, а й їх фактичний вплив на становище різних категорій осіб

Ключові слова:
судова практика; захист персональних даних; протидія дискримінації; правова система; конституційні гарантії