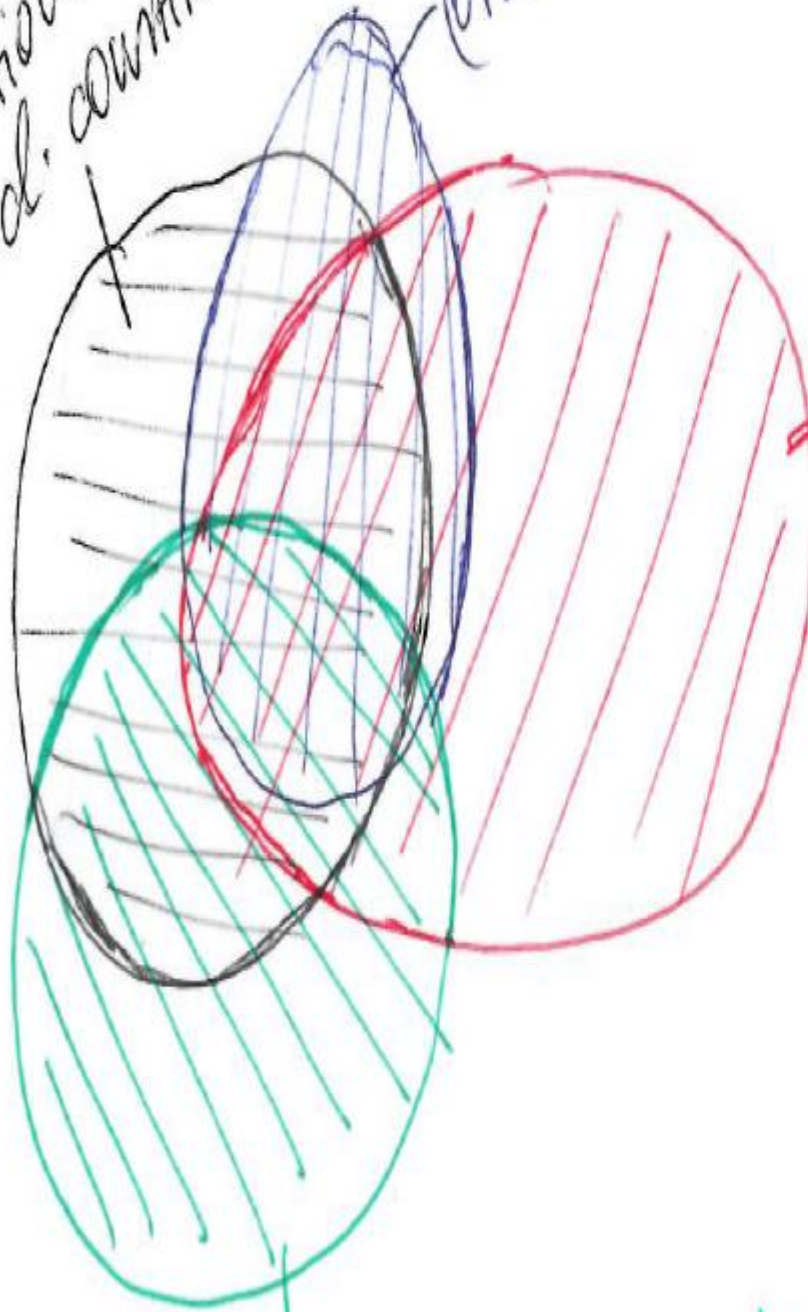


national
int. convention

(other)



→ EU law regime
incl. - FRC
- general principles
of EU law

... Convention

EU law as source of fundamental rights

HISTORICAL DEVELOPMENTS/JUDISPRUDENCE:

- Fundamental rights are **part of the basic principles** of EC (EU) law (case Stauder vs city of Ulm)
- Basic principles of EC (EU) law have an autonomous meaning AND are **inspired by national constitutional traditions** of the member States
(case Internationale Handelsgesellschaft)
- **ECHR** supplies guidelines/ is an instrument of special relevance (cases Nold and Hoechst)
- **ERT-Doctrine**

EU law as sources of fundamental rights

HISTORICAL DEVELOPMENTS/CODIFICATION:

- Maastricht Treaty, Art. F/2
- Art. 6 TEU: three sources:
 - a) Charter of Fundamental Rights (CFR)
 - b) accession of EU to ECHR (also: Art. 52/3 CFR)
 - c) fundamental rights: part of basic principles
- Case Kamberaj, C-571/10

Scope of application of CFR (Art. 51)

„Implementation of EU law“:

Clearly YES inter alia:

a) national act implements a regulation

b) national law transposes a directive

c) Administrative act implements a decision of EU-institution

Clearly NO inter alia:

No EU competences in the field/no harmonisation yet/no application of any EU law

Scope of application of CFR

Grey areas:

- Ackerberg Fransson case: implementation=„within the scope of application of EU law“
- Siragusa case:
 - does the legislation intend to implement EU-law?(see Paoletti case)
 - what is the nature of the legislation?
 - are there specific rules of EU-law on the matter or capable of affecting it?
 - does the legislation have other purposes than the envisaged EU-legislation?
- Hernandez case: objective of directive/national implementations which go beyond the directive
- Pfleger case: derogations of EU fundamental freedoms