Federalist and Antifederalist Forces in the Multilevel System of Human Rights Protection in Europe

I. Federalist and Antifederalist Forces in Multilevel Systems of Government – Who Has the Final Say on Human Rights?

II. Multiple Levels of Human Rights Protection in Europe – Principles of Subsidiarity and Minimum Standards (Favourability)

III. Conflicts between the National and Supranational (EU) Levels of Human Rights Protection and the Respective Courts

1. Conflicts on Art. 51 (1) CFR Concerning Member States’ Obligations under the Charter

2. Art. 53 CFR and the *Melloni* Case of the CJEU

3. National Constitutional Identity – Deploying the “Nuclear Device” of Art. 4 (2) TEU in Human Rights Cases

   a) Balancing Art. 4 (2) and Art. 4 (3) TEU

   b) Unilateral “Identity Review” by the German Federal Constitutional Court

   c) Cooperative Approach of the Italian Constitutional Court in the *M.A.S.* Case

   d) Open Defiance by the Danish Supreme Court in the *Ajos* Case

   e) National Courts’ Human Rights Assertiveness – Where Will the CJEU Draw the Line?

IV. Conflicts between the Supranational (EU) and the Regional-International (ECHR) Levels of Human Rights Protection and the Respective Courts

1. Human Rights Federalism Arguments in the CJEU Opinion Killing the Draft Accession Agreement

   a) Fundamental Mistake of the Agreement: Failure to Protect Autonomy of EU Human Rights Law and the Final Say of CJEU

   b) Lack of Coordination between Art. 53 ECHR and Art. 53 CFR

   c) Principle of Mutual Trust between the Member States Jeopardised

   d) CJEU’s Dispute Resolution Monopoly under Art. 344 TFEU Affected

2. Will the CJEU’s Assertiveness Do a Disservice to Human Rights Protection?

V. Conclusion: Joint Endeavour to Synthesise Elements of Unity and Disunity in Multilevel Systems of Human Rights Protection