

§ 1 Introduction

I. Human and fundamental rights

- see special material on the terms "human rights", "fundamental rights", "constitutional rights"

II. Human and fundamental rights regimes and other mechanisms

- the special role of the Council of Europe to promote human rights in Europe
- European human rights mechanisms outside the regime of the European human rights treaties:
 - the OSCE (an international organisation with a purely political mandate)
 - the Council of Europe's Commissioner for Human Rights
 - the Council of Europe's European Programme for Human Rights Education for Legal Professionals (HELP)
 - The Human Rights Trust Fund (HRTF)

III. The parallelism of human and fundamental rights regimes

1) The primary responsibility of the state for the effective protection of human rights

- a conclusive consequence of the sovereignty of the state

2) The plurality of human and fundamental rights regimes

3) The reasons for the plurality of human and fundamental rights regimes

- the recurring insufficiency of the national protection of human rights and the necessity of guarantees from outside the State
- international human rights treaties as instruments of "mutual insurance", operating like a second safety net
- the necessity of particular fundamental rights regimes for supranational powers
- geo-regional fundamental rights regimes as expressions of identity of civilisations

4) General aspects of the parallelism of human and fundamental rights regimes

a) Intensified protection through cumulative requirements

- national and intern. rights do not compete or collide but complement each other

b) Parallel operation without correlation or interference

- while h.r. treaties set minimum standards, the national standards should be higher

c) Mutual influence of interpretation

d) Risk of conflicts in case of concepts obliging authorities to intervene

- e.g. prohibition clauses, rights with direct horizontal effect, duties of protection

IV. Overview of the human and fundamental rights regimes applicable in Europe

- see special material "Who said it would be easy?"