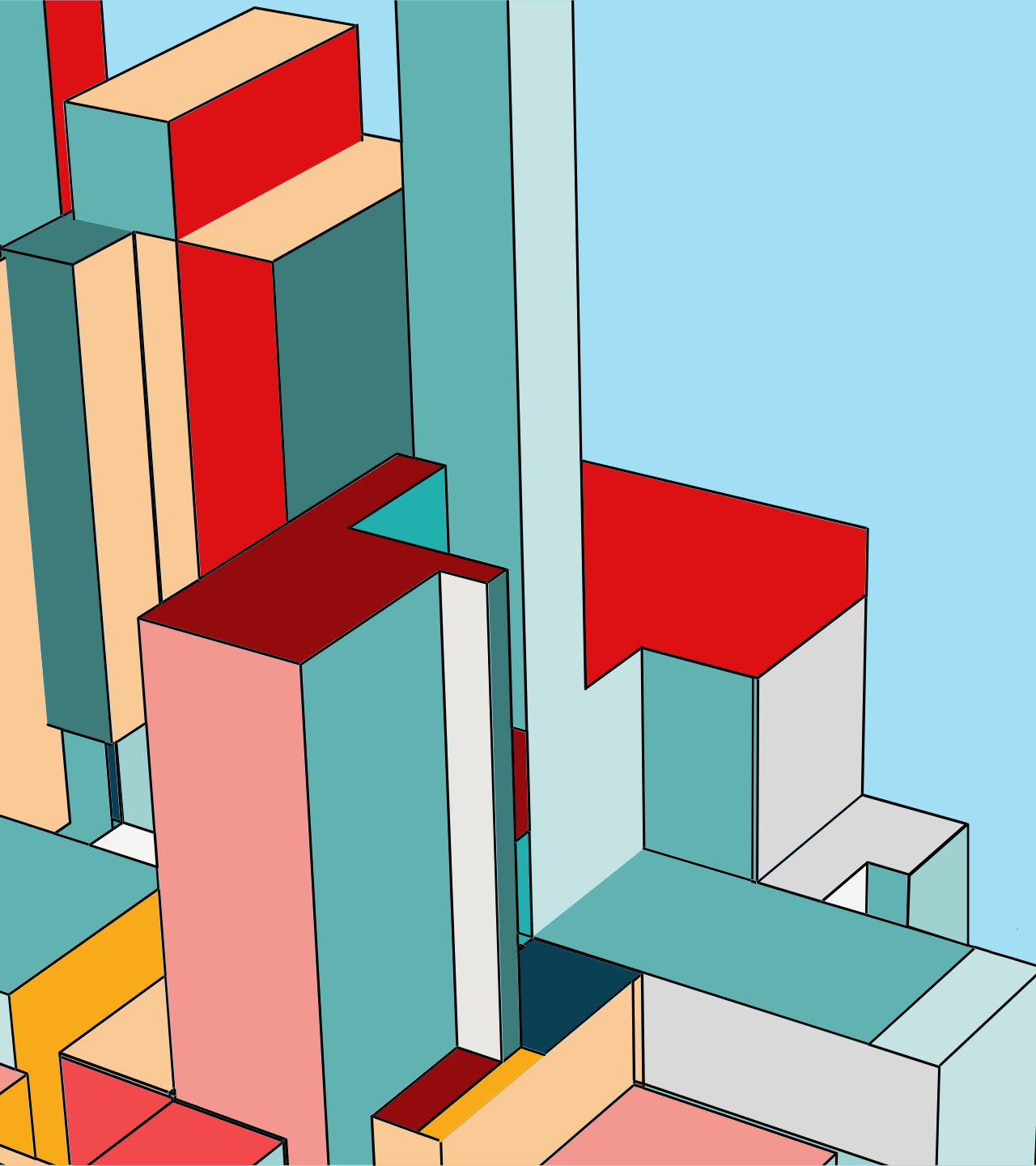




FUNDAMENTAL RIGHTS IN EUROPE

THE CHARTER OF FUNDAMENTAL RIGHTS
OF THE EUROPEAN UNION

29 APRIL 2026

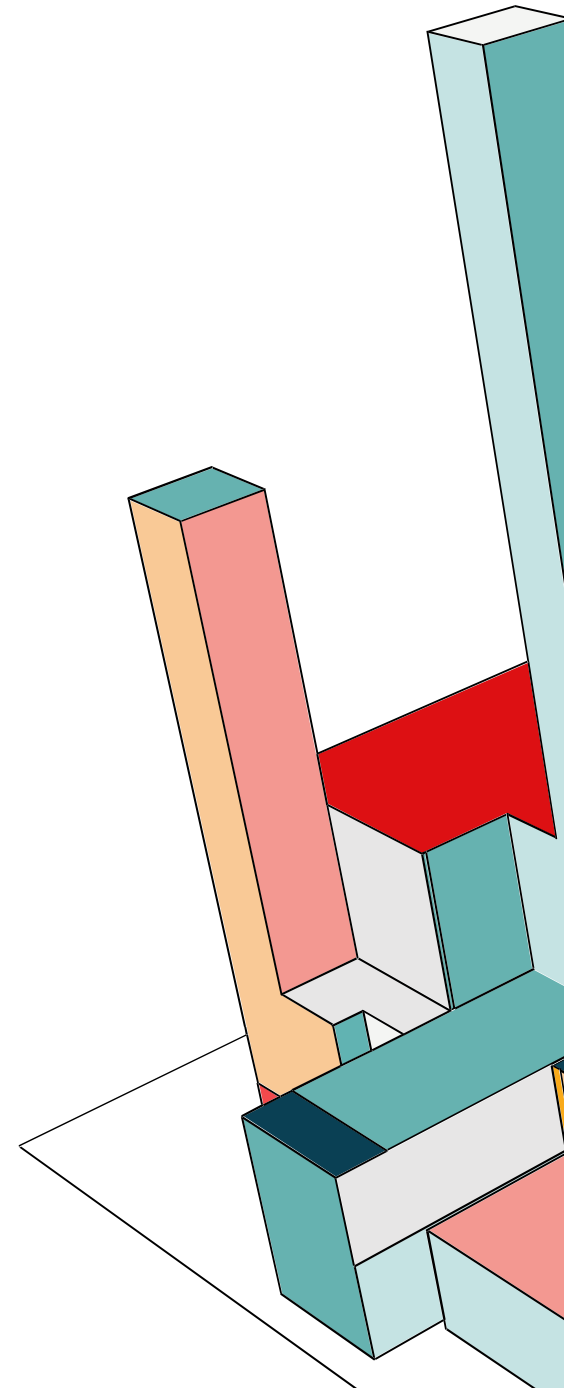
ENRIQUE ARNALDOS ORTS (CJEU)

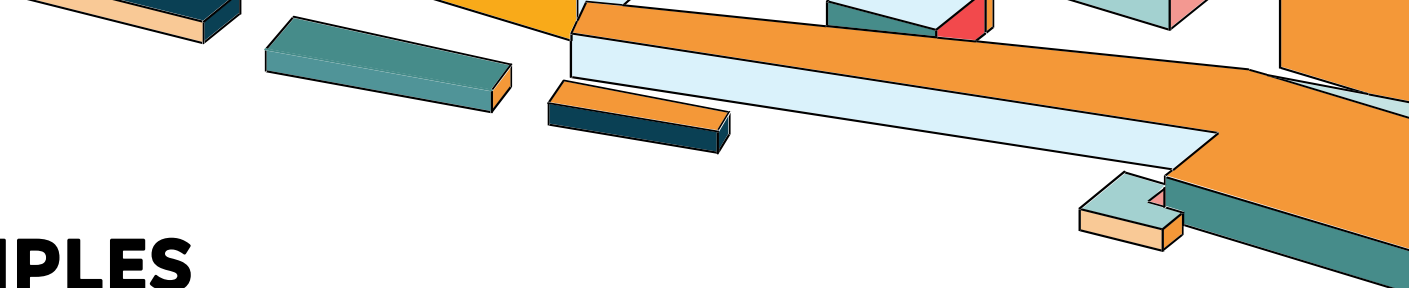


FR AS GENERAL PRINCIPLES OF EU LAW

*"As regards the Member States, it follows unambiguously from the case-law of the Court of Justice that the requirement to respect fundamental rights defined in the context of the Union is only binding on the Member States when they act in the scope of Union law" (judgment of 13 July 1989, Case 5/88 **Wachauf**).*

*"In addition, it should be remembered that the requirements flowing from the protection of fundamental rights in the Community legal order are also binding on Member States when they implement Community rules" (judgment of 13 April 2000, Case C-292/97 **Kjell Karlsson and Others**)*





(SOME) RIGHTS AS PRINCIPLES

Dignity (Omega, C-36/02)

Freedom of expression (ERT, C-260/89)

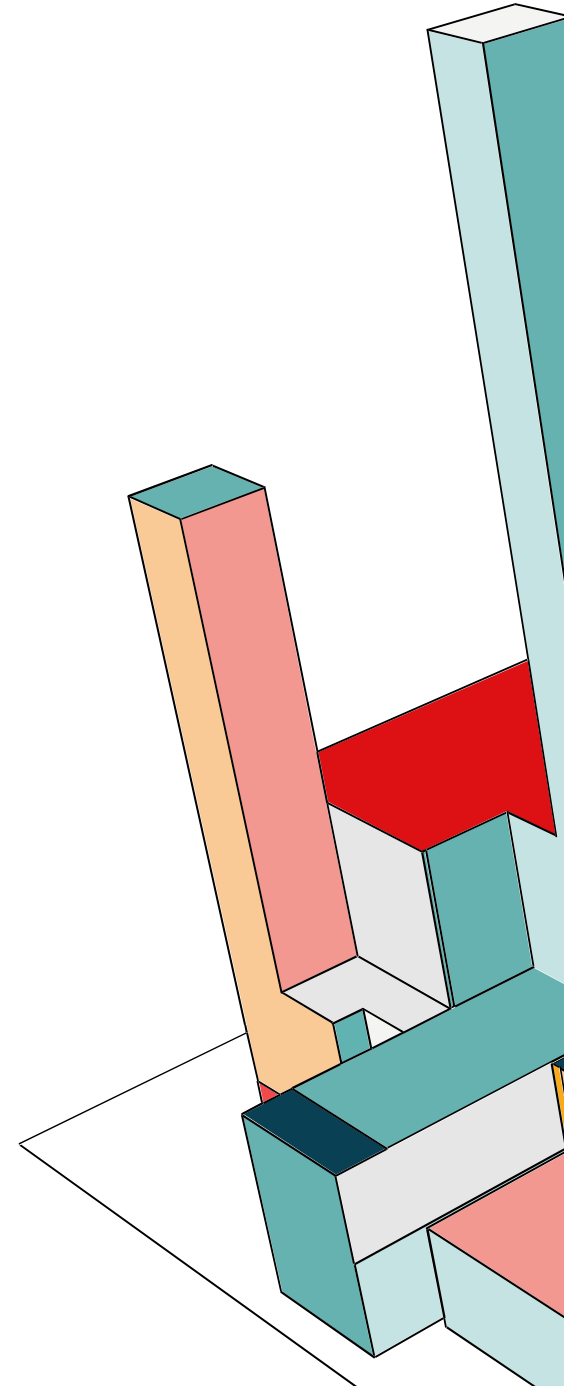
Freedom of religion (Prais/Council, 130/75)

Property (Nold, 4/73)

Effective judicial remedy (Eridiana, 230/78)

THE CHARTER IN CONTEXT

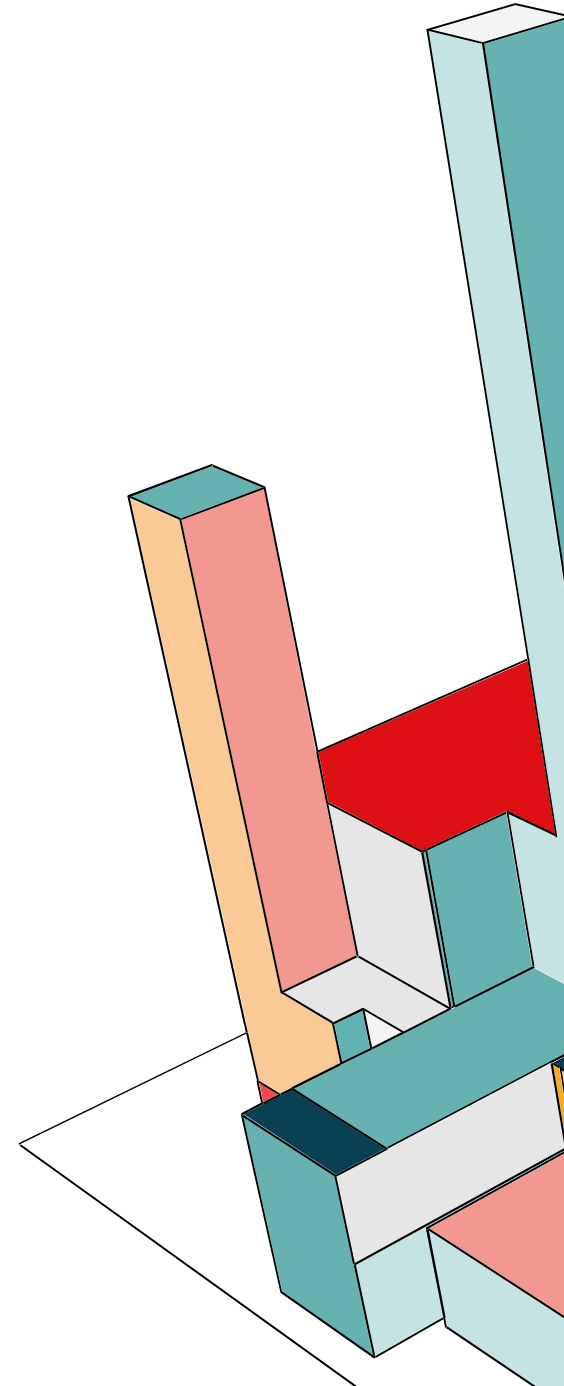
- Fundamental rights protection in the EU: a crowded house
 - National legal orders
 - Constitutional traditions common to MS and general principles of EU law
 - Other regional instruments: ECtHR
- Then, why a Charter?
- The shift of f. rights protection within the Union as a reflection of its own evolution

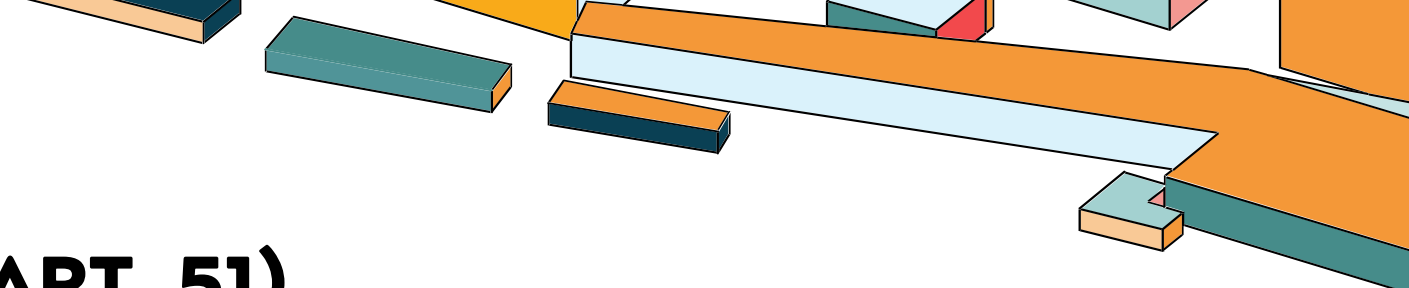


THE CHARTER

- Normative framework of FR protection in the EU
- Source of primary law
- Tool for integration and democratic legitimacy

(...) This Charter reaffirms, with due regard for the powers and tasks of the Union and for the **principle of subsidiarity**, the rights as they result, in particular, from the **constitutional traditions and international obligations common to the Member States**, the **European Convention for the Protection of Human Rights and Fundamental Freedoms**, the Social Charters adopted by the Union and by the Council of Europe and the case-law of the Court of Justice of the European Union and of the European Court of Human Rights. (...)





FIELD OF APPLICATION (ART. 51)

1. The provisions of this Charter are addressed to the **institutions, bodies, offices and agencies of the Union** with due regard for the principle of subsidiarity **and to the Member States only when they are implementing Union law**. They shall therefore respect the rights, observe the principles and promote the application thereof in accordance with their respective powers and respecting the limits of the powers of the Union as conferred on it in the Treaties.
2. The Charter **does not extend the field of application of Union law beyond the powers of the Union** or establish **any new power or task** for the Union, or modify powers and tasks as defined in the Treaties.

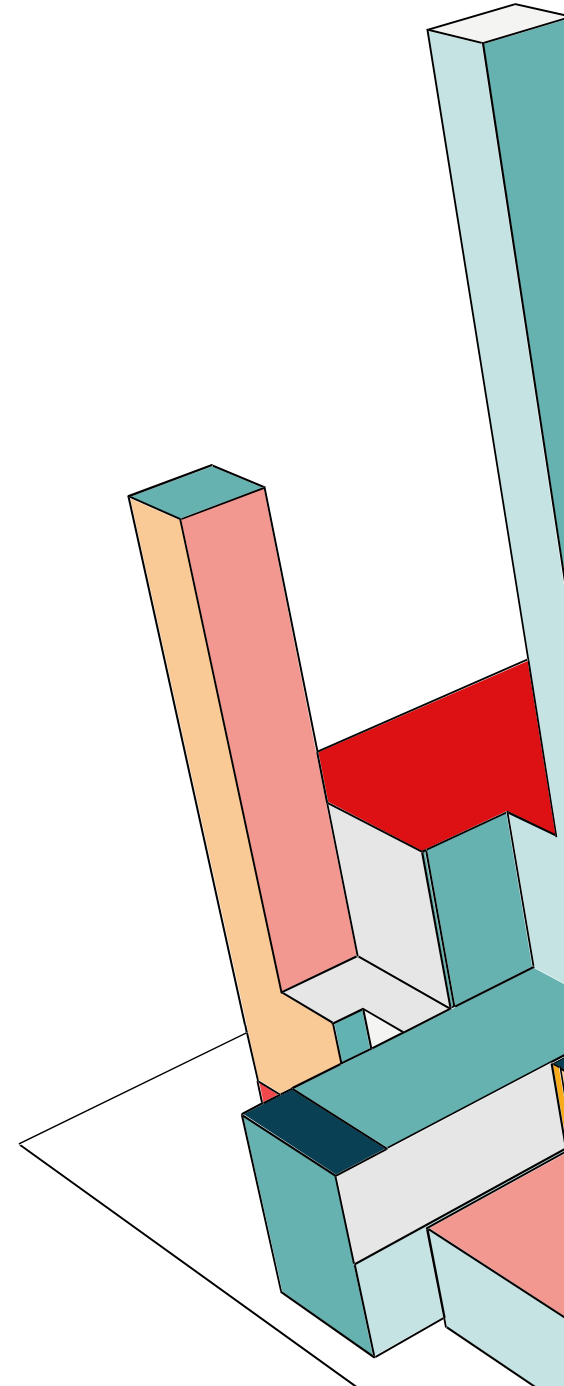
THE CHARTER APPLIES...

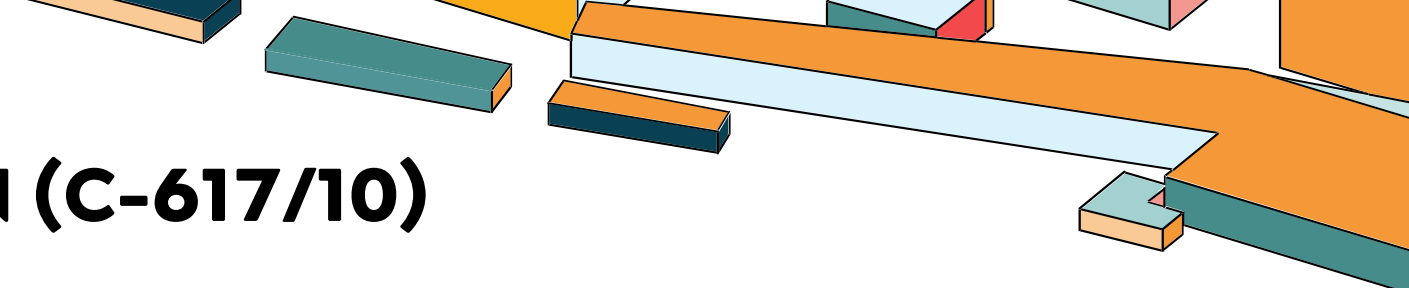
To the institutions, bodies, offices and agencies of the Union with due regard for the principle of subsidiarity

(Cfr. C-370/12 - **Pringle** and C-8/15 P - **Ledra Advertising v Commission and ECB**)

To the Member States **only when they are implementing** Union law.

Without extending the field of application of Union law beyond the powers of the Union or establish any new power or task for the Union, or modify powers and tasks as defined in the Treaties

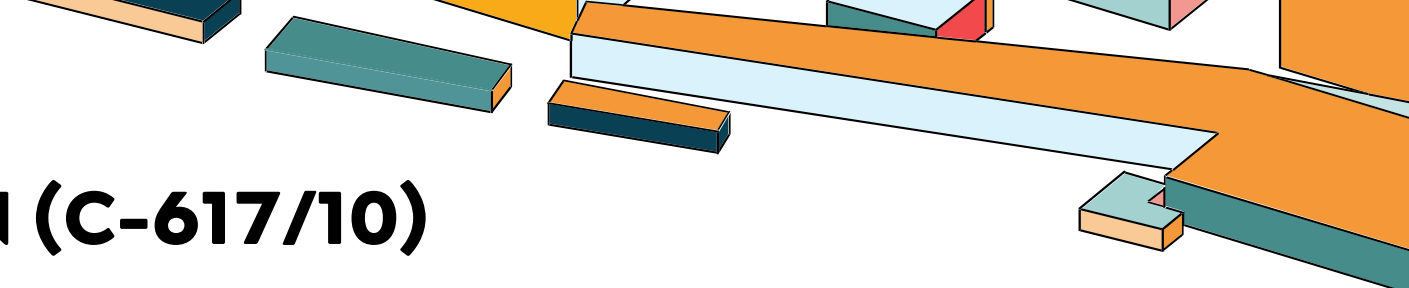




THE ÅKERBERG FRANSSON (C-617/10) STANDARD

"In the case in point, it is to be noted at the outset that the tax penalties and criminal proceedings to which Mr Åkerberg Fransson has been or is subject are connected in part to breaches of his obligations to declare VAT".

"The fact that the national legislation upon which those tax penalties and criminal proceedings are founded has not been adopted to transpose Directive 2006/112 cannot call that conclusion into question, since its application is designed to penalise an infringement of that directive and is therefore intended to implement the obligation imposed on the Member States by the Treaty to impose effective penalties for conduct prejudicial to the financial interests of the European Union"

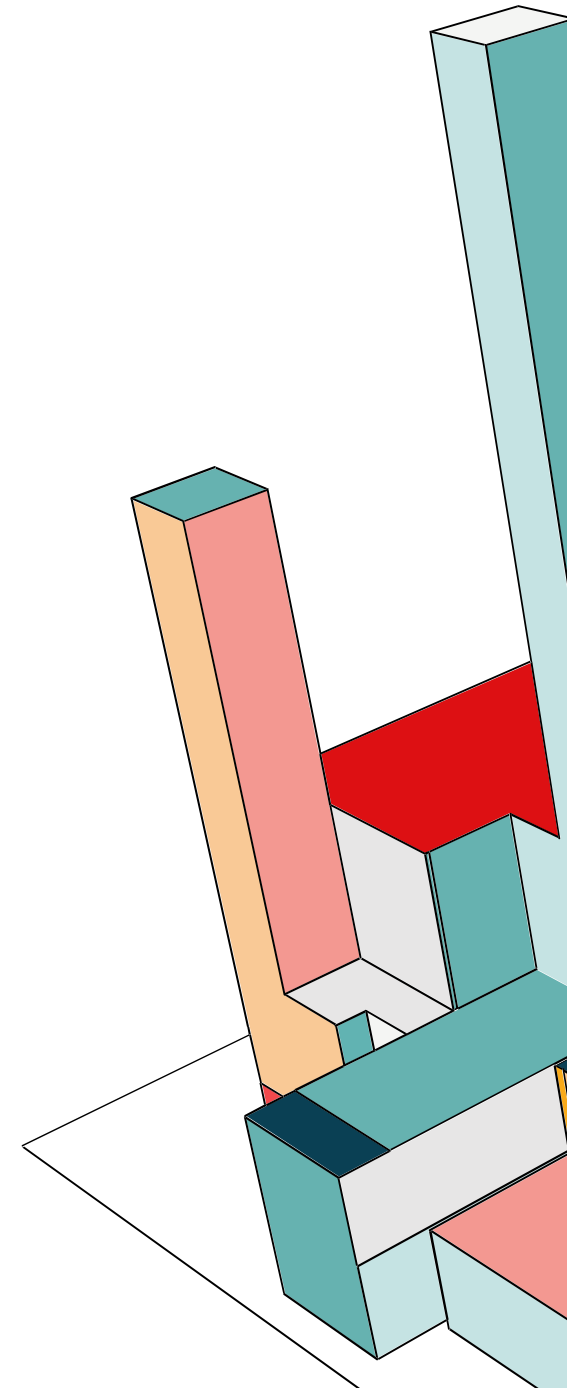


THE AKEBERG FRANSSON (C-617/10) STANDARD

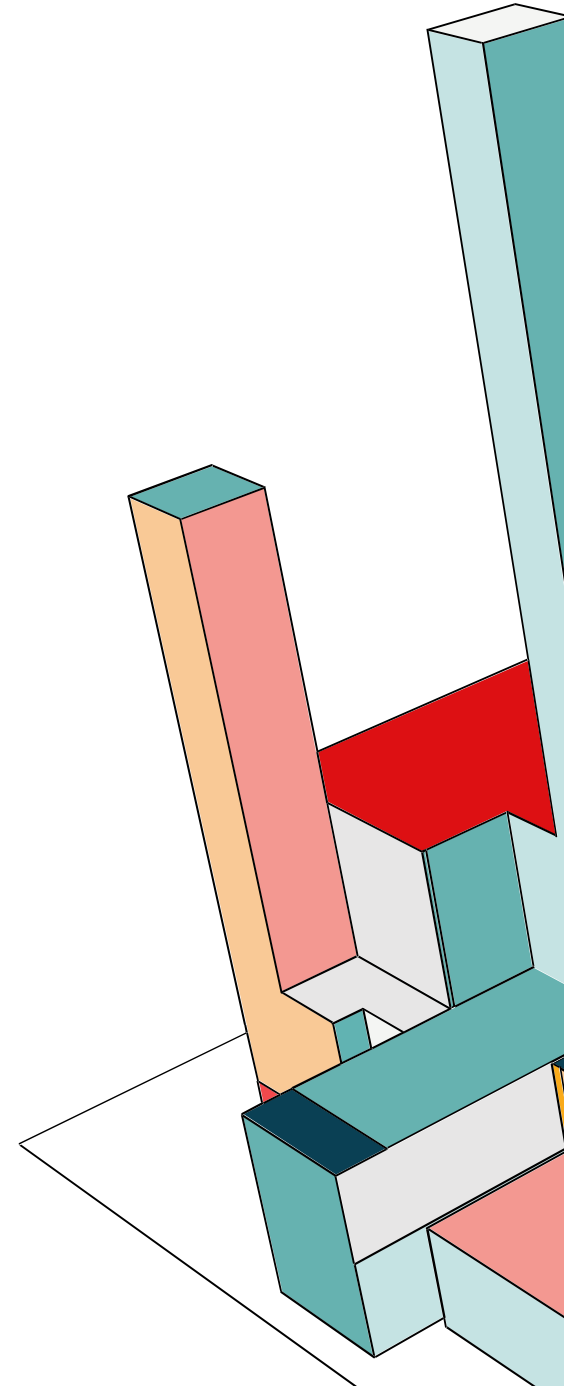
- No substantial distinction between the notions of “implementation” and “scope of application”
- The applicability of EU law entails applicability of the Charter
- No Member State acts may *per se* fall outside of the scope of application of the Charter

SOME CATEGORIES OF IMPLEMENTATION

- Agency
 - Mandatory
 - Optional?
- Derogation
- Inter privatos?
- The Charter as a canon of interpretation

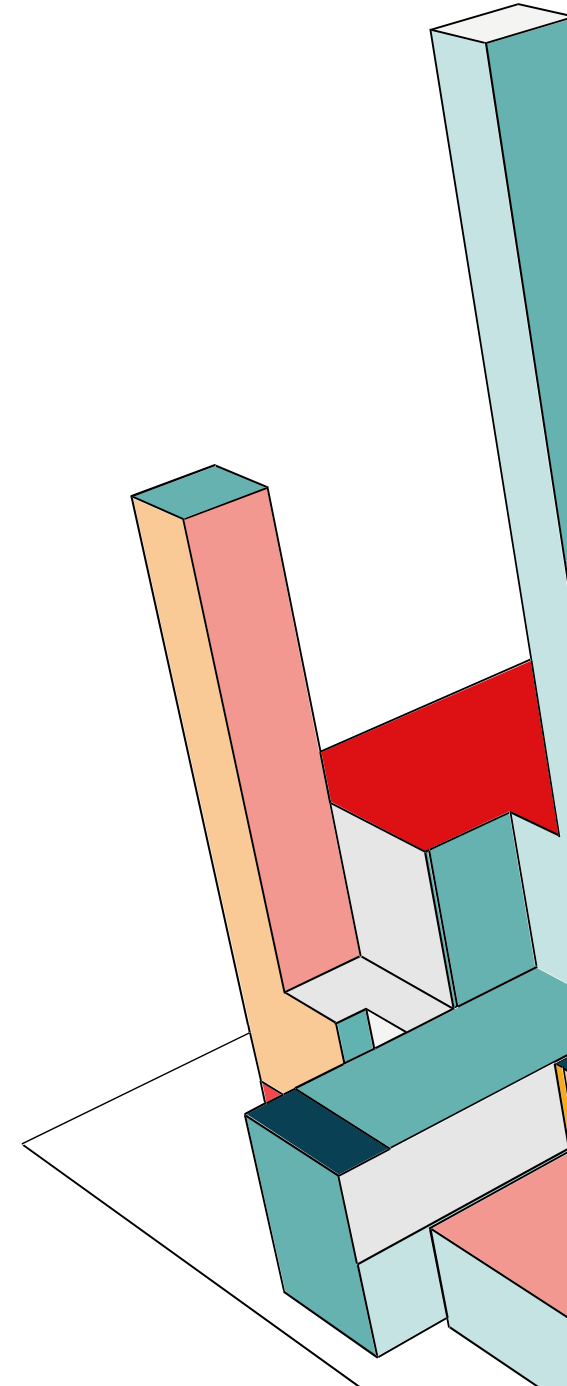


WORKSHOP: CASE STUDIES



CASE 1

Penalty imposed for failure to comply with an obligation established in a Directive. This Directive leaves the Member States a margin of discretion for determining the appropriate penalties in order to ensure compliance with the said obligation.



CASE 2

National rules related to the appointment and removal of judges.

