



Rejus conference

**Art. 47 CFREU, fundamental rights
and the role of national Supreme Courts**

Brussels, 1 October 2018

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*Law is what the judge
had time to read*



Civil law

Supreme Court



Request for preliminary ruling

Cassation

Consultation

(Semi) Binding input

Appeal Courts & District Courts

Mak: 34%



National consultation group of district court and appeal judges



Sanctions must be

- effective
- proportionate
- **dissuasive**

Runs counter to Dutch private law in general and so against judges' intuition.

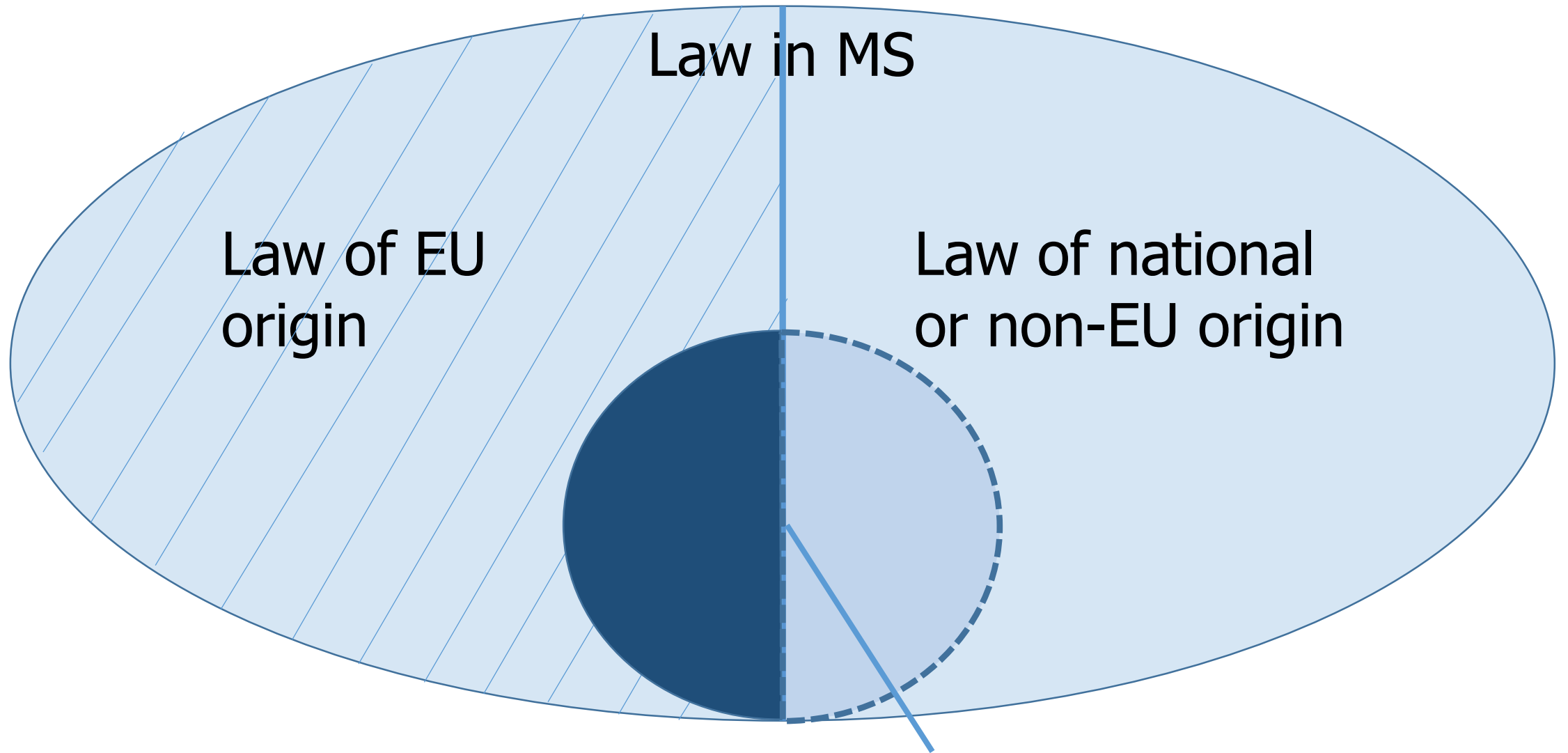
System needs to be explained.



 CFR applies

One way equivalence mirror

 ECHR applies



Law in MS

Law of EU origin

Law of national or non-EU origin

Ex officio application of fundamental rights / protective rules

Article 47(3) CFR

Legal aid shall be made available to those who lack sufficient resources in so far as such aid is necessary to ensure effective access to justice.



RECHTSHULP

Dekker overweegt drastische hervorming rechtsbijstand

Mensen gaan meer betalen voor rechtshulp en moeten meer zelf regelen, zo wil het ministerie.

Door o
Mark L

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Vooraf in de ochtend
wat zon, 's middags
stapelwolken. Vrijwel

Inhoud
Opinie 17-19 | Media C4-9 | Sport
E10-11 | Economie E1-9 | Colofon, tv
E20-21 | Familieberichten E4-5 |

Bezorginformatie
nrc.nl/service of 088 572 0572
ma t/m vr 08.00-19.45 uur, za 11.00-16.30 uur

Lees nrc.next ook online

Zo geregeld
Ga naar nrc.nl/actieveer

Minister Dekker
considers drastic
reform legal aid

A small cartoon illustration of a man with glasses, wearing a suit and tie, standing with his arms crossed. The drawing is in a simple, sketchy style.

Save legal aid

Justice for all



Court fees

Small claims court

Legal person

Natural person

Claim €500 < €12.500

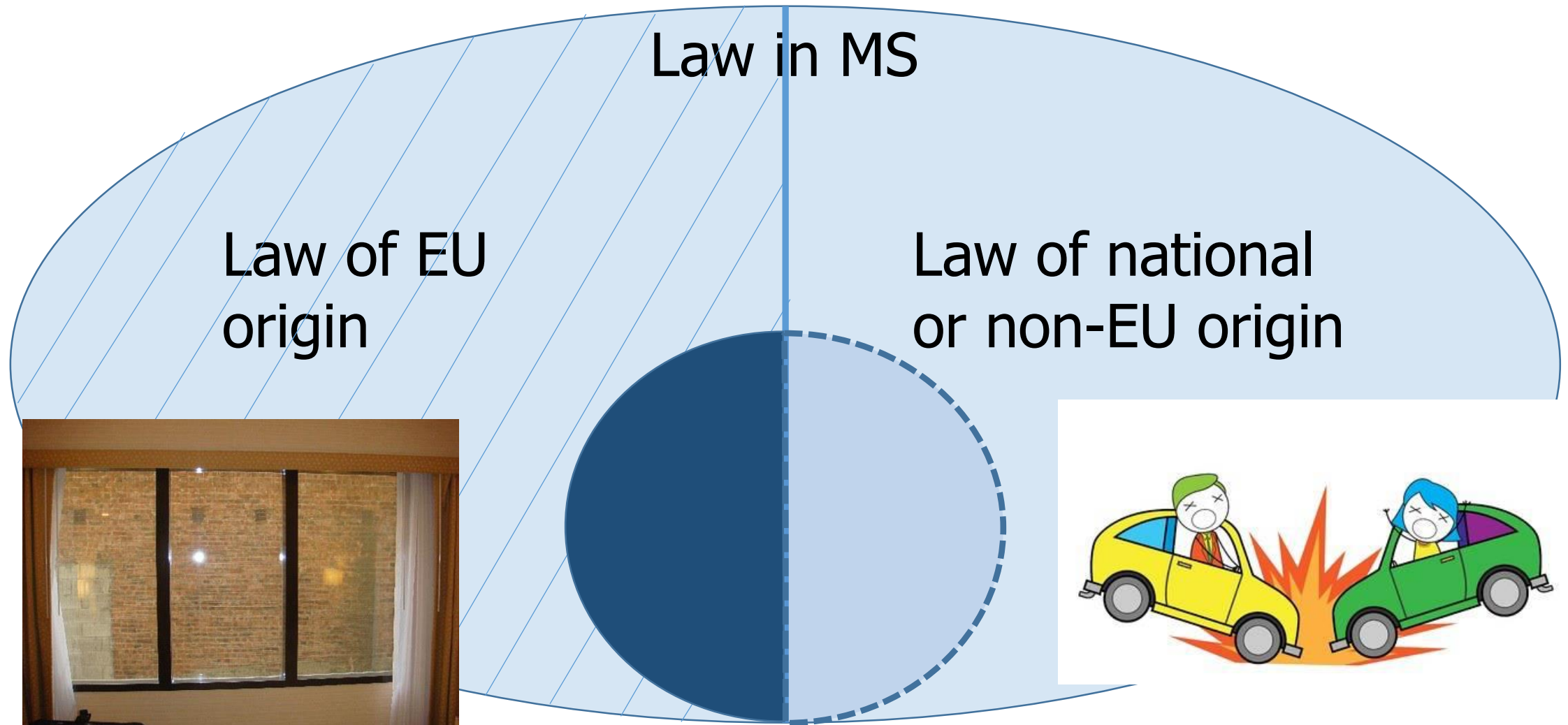
€476

€226



 CFR applies

 ECHR applies



ECLI:EU:C:2018:257 (Egenberger)

Offer of fixed-term employment
for a project on the UN
Convention on the Elimination of
All Forms of Racial Discrimination

If not possible to interpret national
law in conformity with Art. 4(2)
Directive 2000/78/EC, court has to
disapply contrary national provision
to ensure protection Art. 21 and 47
CFR.

Is horizontal
effect fair?

Evangelical Church



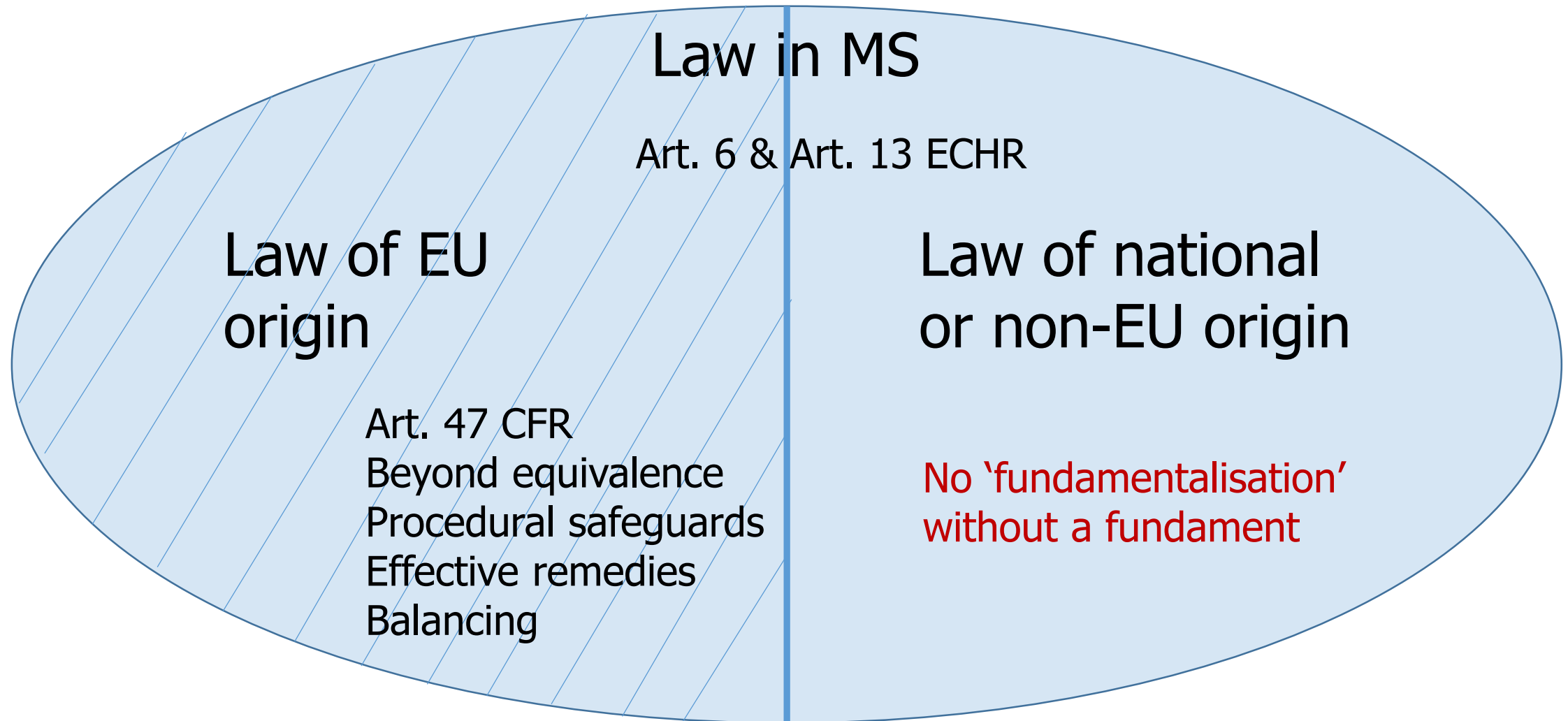
Egenberger

Consequences
of
disapplication?



Shortlisted, but not
invited, because no
church member

SC: give full effect to fundamental rights in relevant area



SC: within MS limits, strive for coherence in all MS law