“The Burgeoning Principle of Consistency in EU Law”

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By Dr. Christian Franklin, University of Bergen

Outline

1. Historical development
   - Evolution: From politically to legally binding principle
   - Treaty-based requirements
   - Court-made requirements

2. What does “consistency” mean?
   - Narrow sense: Absence of contradictions
   - Broad sense: Coherence

3. Categorisation of consistency requirements
   - A four-layered approach to categorisation

4. Article 7 TFEU
   - Setting of a new legal context
   - Interpreting consistency: A narrow interpretation problematic?

Article 7 TFEU: “The Union shall ensure consistency between its policies and activities, taking all of its objectives into account and in accordance with the principle of conferral of powers.”

5. Article 21(3) TEU
   - More limited than Article 7 TFEU
   - Setting of a new legal context
     - as compared to its predecessor (Article 3 EU);
     - and more generally
   - Interpreting consistency: 1st and 2nd sentences of the provision be read jointly?

Article 21 TEU: “The Union shall respect the principles and pursue the objectives set out in paragraphs 1 and 2 in the development and implementation of the different areas of the Union’s external action covered by this Title and by Part Five of the Treaty on the Functioning of the European Union, and of the external aspects of its other policies.

The Union shall ensure consistency between the different areas of its external action and between these and its other policies. The Council and the Commission, assisted by the High representative of the Union for Foreign Affairs and Security Policy, shall ensure that consistency and shall cooperate to that effect.”