

National Sovereignty and the Principle of Primacy in EU Law and Their Importance for the Member States

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ABSTRACT

The principle of primacy of the EU law has been in force for almost 50 years and belongs to the fundamental principles of EU law. It signifies that in case of a conflict between EU law and the law of the Member States, the EU law prevails. Its fundamental goal is to assure a unified and effective application of EU law in all Member States. The principle of primacy has been established by the case law of the Court of Justice of the European Union. This article discusses the principle of primacy, as developed by the Court of Justice of the European Union, and focuses on its importance for the Member States. The legal theory divides Member States into three groups with regard to what their position on the primacy of EU law in relation to the national constitution is: Member States that acknowledge full primacy, Member States that acknowledge limited primacy of EU law in relation to the national constitution, and Member States that principally assume primacy of the national constitution over EU law. Within the context of the European hierarchy, the constitutional courts of the Member States are left with the central role and power of review of constitutionality, but it remains to be seen whether in future more constitutional courts will enter a dialogue with the Court of Justice of the European Union in the form of a preliminary ruling procedure.

KEYWORDS

Principle of Primacy; EU Legal Order; Direct Effect; National Sovereignty; Court of Justice of the European Union; Preliminary Ruling Procedure; Constitutional Law; International Law; EU Law

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References

- [1] Avbelj, M. (2011a). Sodno pravo evropske unije. Ljubljana: GV Založba.
- [2] Avbelj, M. (2011b). Supremacy or primacy of EU law—(Why) does it matter? *European Law Journal*, 17, 744-763. doi:10.1111/j.1468-0386.2011.00560.x
- [3] Basedow, J. (2010a). Der europäische gerichtshof und das privatrecht. über unsicherheiten, allgemeine Grundsätze und die europäische justizarchitektur. *Archiv für die civilistische praxis*, 157.
- [4] Basedow, J. (2010b). The court of justice and private law: Vacillations, general principles and the architecture of the European judiciary. *European Review of Private Law*, 443.
- [5] Craig, P., & De Búrca, G. (2007). *EU law, text, cases and materials* (4th ed.). Oxford: Oxford University Press.
- [6] Danwitz von, T. (2010). Die aufgabe des gerichtshofes bei der entfaltung des europäischen Zivilund Zivilverfahrensrechts. *Zeitschrift für Europäisches Privatrecht*, 463.
- [7] Gorlitz, N. (2002). Die beschränkung der wehrpflicht auf männer und europarechtliche diskriminierungsverbote. *Die Öffentliche Verwaltung*, 55, 607-613.
- [8] Grabenwarter, C. (2010). National constitutional law relating to the European Union. In: A. Bogdandy

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- [9] Koster, C., & Schroder, J. (2000). Nachhilfe vom EuGH: Frauen an die Waffe! Juristische Schulung, 6, 542-546.
- [10] Lenaerts, K., & Van Nuffel, P. (2005). Constitutional law of the European Union (2nd ed.). London: Sweet & Maxwell.
- [11] Lenaerts, K., & Van Nuffel, P. (2011). European union law (3th ed.). London: Thomson Reuters, Sweet & Maxwell.
- [12] Lenz, C. O. (2000). Frauen im dienst mit der waffe—Nationales reservat oder europäische gleichberechtigung? Zum urteil kreil gegen bundesrepublik deutschland. Zeitschrift für Rechtspolitik, 7, 265-268.
- [13] Marti, G. (2010). L' arrêt melki de la cour de justice: La clef d' un pluralisme constitutionnel renforcé? Revue des Affaires Européennes—Law & European Affairs, 17, 889-904.
- [14] Sarmiento, D. (2010). L' arrêt melki: Esquisse d' un dialogue des juges constitutionnels Européens sur toile de fond française. Revue Trimestrielle de Droit Européen, 3, 588-598.
- [15] Scholtz, R. (2000). Frauen an die waffe kraft Europarechts? Die Öffentliche Verwaltung, 53, 417-421.