

Supremacy and direct effect of EC law - Position of the constitutional court

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Abstract

Although it was originally established with the aim of cooperation and economic integration of its Member States, The European Union (EU) got a universal nature, becoming a real supranational organization whose legal acts, adopted by its institutions are directly applicable by Member States and when a conflict arises between the internal law of a Member State and the European Community (EC) law, the latter prevails.

By accepting the supranational jurisdiction, the EU Member States also accept to transfer parts of their sovereignty. However, not in all countries is easily accepted the renunciation of part of national sovereignty and the recognition of certain competencies to the supranational institutions. In this sense, the constitutional courts have often opposed to a complete transfer of national legal sovereignty and have insisted on their role as the “guardian” of the Constitution. Generally, these objections are based on the question whether EC law is capable to offer the same protection of rights with that offered to the national level.

If the national constitutional order limits the transfer of powers or the effects of supremacy, the highest national courts should decide whether these restrictions have been violated. This raises the issue of the “ultimate authority” or “ultimate arbitrator” in the case of conflict between national and community law. In this sense main objective of this manuscript is the direct effect of EU law in Albania as a Candidate state for the EU.

Keywords: Albania, EU law, Constitutional court.

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