

Supremacy of the European Union law over national law of the member states

Erlis Hereni

Legal Advisor to the Minister of Infrastructure and Energy, Government of Albania

Aldo Shkëmbi

Attorney at Law, A-SH legal Studio

Abstract

The autonomy of the EU legal system is of fundamental importance to the EU, because it is the only guarantee that the EU will not lose in terms of strength or efficiency, when overlapping with the national law of the member states since the EU legal system and the national legal system are interrelated and interdependent. The aspect of the relationship between EU law and the national law of the member states includes those areas where the two systems complement each other. Article 4 (3) of the TEU clearly defines that: "According to the principle of sincere cooperation, the Union and the Member States shall assist one another with mutual respect in carrying out the obligations arising from the Treaties. Member States shall take the necessary measures, whether general or specific, to ensure compliance with the obligations arising out of the Treaties or resulting from the acts of the institutions of the Union. Member States shall facilitate the fulfilment of such obligations of the Union and shall refrain from any measures which could jeopardize the achievement of the objectives of the Union. However, the relationship between EU law and the domestic law of the member states is also characterized by the occasional 'clash' or conflict between the EU legal system and that of the domestic one. Such a situation always arises when a provision of the Union law transfers rights and imposes obligations directly on EU citizens while its content conflicts with the domestic law of the Member States. From this point of view, the problem that arises and is analysed in the given paper is the direct applicability of EU law and its supremacy over the internal law of the member states, as the conflict between EU law and internal law is resolved only if one gives priority to the other, as long as the EU legislation does not contain clear provisions on this issue.

Keywords: European Union (EU), Treaty, Autonomy, domestic law, community members, supremacy provision, legal system, member states.

Full Text: [PDF](#)



This work is licensed under [Creative Commons Attribution 3.0 License](#).

Academic Journal of Business, Administration, Law and Social Sciences ISSN 2410-3918 (print)

ISSN 2410-8693 (online)

Copyright © IIPCCCL-International Institute for Private, Commercial and Competition law