

NÁZOV PRÁCE A JEJ ZHRNUTIE V ANGLIČTINE / TITLE OF THIS WORK AND ITS SUMMARY IN ENGLISH

Title: Principle of Supremacy of Community Law over National Law

Summary:

The principle of supremacy of Community law over national law may be understood both in a narrower sense (application supremacy) and a broader sense. Basically, the principle of supremacy in the narrower sense refers to situations in which there is conflict between national and Community law with (subjective or objective) direct effect. Subjective direct effect of Community law predicates *substitution*, whereas objective direct effect “only” *exclusion*.

Unlike the principle of supremacy in the narrower sense, the broader principle of supremacy does not demand the Community norm with (subjective or objective) direct effect. Thus the broader principle governs the relationship between the whole Community law (i.e., not only directly effective) and the national law. The broader principle flows from the requirement of consistency of national law with Community law and arises from article 10 of the Treaty of Rome as amended. However, the doctrine of (subjective/objective) direct effect is unclear and the relationship between the principle of supremacy and direct effect is complicated enough.

The author agrees that for now there should be drawn the line between “supremacy” and „primacy“ of community law. That means that Community law should be supreme only up to certain level, i.e., Community law should not enjoy supremacy only over „hard core“ of the constitution of a member state (or better said “constitutional identity” of a member state).

The author is of the opinion that there is a need to establish special European Constitutional Court to resolve the “Kompetenz-Kompetenz” problem, and other constitutional issues, in its/their complexity. At the same time, as such a court is established, the following doctrine should be adopted: (i) Community law is the Supreme Law of the Land (by its very nature) and (ii) national law preempts Community law only in those circumstances when Community law so stipulates (e.g. for the purpose to honour the constitutional tradition of a member state).

At the end of the day the author expresses the opinion that by the recognising of the principle of supremacy of supranational Community law over national law, and by its improvement, Europe is closer to the permanent peace among European nations (comparing one of the aim of the “Seven Nuremberg’s Principles”).