Abstract

The topic of this Master thesis is a relationship between the Court of Justice of the European Union and EU Member States. The thesis builds on a theoretical debate on the nature of this relationship which has been held since the 1990s between the intergovernmentalists and the neofunctionalists. At the same time, the thesis stems from the research on judicial activism, in particular with relation to the Court of Justice.

The aim of the thesis is to verify a hypothesis that the key actor who influences the shape of EU law is the Court of Justice and not Member States. To achieve it, the thesis uses two sub-hypotheses: 1. The Court of Justice while adjudicating in the area of Internal Market promotes a pro-integration agenda even against the preferences of Member States; 2. Member States are not able to reverse the state of law created by the for-them-undesirable case law.

The hypothesis is verified on the cases of rights of EU citizens and provision of cross-border health-care services, and on the subsequently adopted Directive 2004/38/EC and Directive 2011/24/EU. The first sub-hypothesis is specifically verified by an analysis of Member States’ observations in proceedings before the Court of Justice compared with the judgments themselves in four cases dealing with rights of economically non-active persons and six cases on provision of cross-border healthcare. The second sub-hypothesis is verified by an analysis of provisions of the Directives which built on the case law of the Court of Justice.

The thesis sums up that the first sub-hypothesis can be considered confirmed with a reservation. The second sub-hypothesis, on the contrary, can be considered disproved. As a whole, the hypothesis is found disproved and the key position of Member States is confirmed.