

# The Impact of EU Law on National Legal Frameworks

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**Abstract:** The presented paper focuses on the complex correlation between European Union and the national legal systems of its member states. It examines the fundamental principles that underpin this relationship, and considers how they are playing out in different national contexts.

The due emphasis on the EU Law primacy principle in cases of conflicts with national laws, which has far reaching legal and political ramifications in a multi-level governance system, including its challenges to national sovereignty and the impact they create legally and politically. The presented study examines how national constitutional courts in member states have differed in their interpretation of this principle and highlights the delicate balance they registered between setting EU obligations on one hand and safeguarding national constitutional identities on the other.

The paper explains the idea of direct effect and the distinctions between vertical and horizontal direct effect as well as their evolution over time and constraints. The debates also underscore the fragmented nature of domestic courts in implementing direct effect, resulting in disparate measures and outcomes for individuals trying to rely on EU rights. The paper also assesses the implications of both of these systemic principles, covered in European treatment as the proportionality principle. The analysis highlights the continued negotiation of power between supranational and national legal systems, and the importance of national courts in interpreting both sets of laws, as well as in their application on the ground.

**Keywords:** EU Law, Primacy Principle, Direct Effect, Proportionality Principle, CJEU

## Introduction

The European Union is a distinctive political and legal organization that has profoundly impacted the legal frameworks of its member states. Established to promote economic cooperation and political stability, the EU operates under its own set of laws, which profoundly impact the national legal frameworks of the countries within its jurisdiction. This dynamic creates a complex interplay between EU law and national laws, raising fundamental questions about the nature of sovereignty, the consistency of legal systems, and the function of national courts in understanding and implementing both sets of laws.

EU law comprises treaties, regulations, directives, decisions, and CJEU case law. These legal instruments are designed to guarantee that member states comply with the principles of the organization, facilitating a single market and fostering economic and social cohesion. However, as EU law supersedes domestic law, it necessitates adjustments within domestic legal frameworks, often resulting in harmonization efforts that align national laws with EU standards.

While rooted in the historical and cultural contexts of individual states, national legal frameworks must navigate the obligations imposed by EU law. This interaction can lead to positive outcomes, such as enhanced legal protections and rights for citizens, as well as challenges, particularly when national interests conflict with EU requirements. Understanding this relationship is significant for comprehending the broader implications of EU membership on national sovereignty and legal autonomy.

The presented article explores the principles of EU law that underpin its authority over member states, examine how these principles influence national legislation, and address the challenges and conflicts

arising from this coexistence. By examining the effects of EU law on national legal systems, the author seeks to emphasize the intricacies of legal integration within the European Union and the continuous power negotiations between supranational and national legal frameworks.

This research uses qualitative research methods to explore the impact of EU law on national legal frameworks to achieve a comprehensive understanding. The study will analyze primary sources such as EU treaties, regulations, and case law, alongside secondary sources including academic literature and governmental reports to identify the adaptations made by member states.

## **I. Principles of EU Law**

The legal framework of the European Union is underpinned by several fundamental principles that guide its relationship with the laws of member states. Understanding these principles is essential for comprehending the broader impact of EU law on national legal frameworks. The primary principles include the EU law primacy, the direct effect of EU law, and the proportionality principle.

### **A. Primacy of EU law**

The EU Law primacy principle states that when there is a collision, EU law supersedes national laws. Unlike certain elements of direct effect, the primacy principle is more politically contentious than legally. In the framework, where the norms of multiple systems should co-exist, questions about their relative hierarchy emerge. What is particularly notable about the EU is the matters of hierarchy, sovereignty, and ultimate authority that are still debated today<sup>1</sup>. The EU and its Member States hold different perspectives on the reasons for and the degree to which EU law prevails over national law.

There are three key points of the primacy principle important to be outlined, in particular:

1. The EU law primacy means it takes priority in each case application individually. However, this principle does not invalidate the national law in question. As a result, the national provision remains a valid component of the national legal system until it is altered by the proper domestic bodies, like the legislature or, if within its powers, the national constitutional court<sup>2</sup>. The rationale for this application rests on two independent legal systems: EU and national law. While they interact, neither system is hierarchically superior. Legal norms can only be created or annulled by their respective institutions<sup>3</sup>. Therefore, a national law that conflicts with EU law in a particular case and is set aside by a national authority may still apply in scenarios that are purely national and not influenced by EU law. Until it is repealed, it remains a valid piece of national legislation.
2. According to the Costa case, the primacy principle in application is absolute from the Court's perspective, particularly regarding the internal actions of Member States. This primacy is absolute in two main ways: hierarchical and temporal. It applies to all types of EU law, including primary law and all binding secondary legislation. Each of them takes precedence over national laws, even those contained in national constitutions. Moreover, as indicated in the Costa case decision, EU law also prevails over any national legislation that is enacted afterward<sup>4</sup>.
3. The EU law primacy grants national judges, from lower courts to the highest courts, to ignore national laws that conflict with it. They may exercise this power independently, at any stage

<sup>1</sup> Michal Bobek, "The Effects of EU Law in the National Legal Systems", *European Union Law*, ed. Catherine Bernard - Steve Peers (Oxford: Oxford University Press, 2020), 155.

<sup>2</sup> Mario Mendez, "The Legal Effect of Community Agreements: Maximalist Treaty Enforcement and Judicial Avoidance Techniques", *European Journal of International Law* 21/1 (2010), 84.

<sup>3</sup> Bobek, "The Effects of EU Law in the National Legal Systems", 175.

<sup>4</sup> Roman Kwiecien, "The Primacy of European Union Law over National Law under the Constitutional Treaty", Special Issue – Unity of the European Constitution, *German Law Journal* 6/11 (2005), 1481.

of legal proceedings, regardless of national law stipulations to the contrary, and without needing prior authorization from another court<sup>5</sup>. From a normative standpoint, EU membership changes "national" legality into "European" legality by broadening the range of legal sources available. From a practical perspective, even when national administrative authorities apply EU law extensively and occasionally make errors, their actions closely resemble their daily interactions with national law. Furthermore, similar to their dealings with national law, national administrations are fully accountable to national judicial review concerning the administrative application (or misapplication) of EU law, which naturally encompasses issues related to EU law as well.<sup>6</sup>

According to the CJEU case law three main arguments support the EU Law primacy, in particular:

- the obligation to observe treaties;
- the need to ensure the effectiveness and consistent exercise of EU law;
- the autonomous nature of the Organization's legal framework<sup>7</sup>.

In the *Humblet case*<sup>8</sup> decision, the CJEU linked the principle of *pacta sunt servanda*, obligating states to honor their international treaty commitments to the ratification of the EEC Treaty, asserting that this commitment underpins the EU law primacy. The significance of the mentioned case lies in its affirmation that internal laws cannot impede the application of EU law, thereby reinforcing the foundational idea that the effectiveness of Community legal order depends on its primacy. This ruling set a precedent for subsequent cases and underscored the imperative for Member States to align their national legislation with EU obligations, further solidifying the autonomy and authority of Community legal framework.

A similar perspective was observed in the *San Michele case*<sup>9</sup>. In this decision, CJEU reaffirmed the necessity for Member States adhering to EU law, stressing that national measures must not compromise the goals of the Community legal framework. Member States cannot invoke national legislation to justify deviations from EU law, this ruling contributed to the strengthening of the primacy principle, ensuring that EU law remains paramount in situations of legal conflict. The San Michele case thus played a key role in shaping the correlation between EU law and national legal systems, affirming the need for coherence within the framework of the European legal order.

The *Van Gend en Loos case*<sup>10</sup> is widely regarded as a preliminary ruling that distinguishes the Community legal order from the conventional international legal framework. According to the case, the CJEU addressed the ability of individuals to invoke EU law directly before national courts, establishing the doctrine of direct effect. The Court affirmed According to the EEC Treaty, new legal order was created in which individuals have rights that Member States must respect. The significance of the mentioned case is that EU law supersedes internal legislation, enabling direct access to legal remedies for individuals in cases of conflict. This ruling laid the groundwork for the application of the primacy principle, emphasizing that Member States cannot pass legislation that compromises the efficiency of EU law.

A year later, in the well-known *Costa case*<sup>11</sup>, the CJEU expanded on this notion, asserting the primacy of EU legal order and referring to it as "its own legal system," emphasizing its "special and original

<sup>5</sup> Kwiecien, "The Primacy of European Union Law over National Law under the Constitutional Treaty", 1482.

<sup>6</sup> Michal Bobek, "Thou Shalt Have Two Masters: The Application of European Law by Administrative Authorities in the New Member States", *Review of European and Administrative Law* 1/1 (2008), 53.

<sup>7</sup> Kwiecien, "The Primacy of European Union Law over National Law under the Constitutional Treaty", 1481.

<sup>8</sup> Court of Justice of the European Union (CJEU), D. Case 6/60 (16 December 1960).

<sup>9</sup> Court of Justice of the European Union (CJEU), D. Case 9/65 (14 December, 1966).

<sup>10</sup> Court of Justice of the European Union (CJEU), D. Case 26/62 (5 February 1963).

<sup>11</sup> Court of Justice of the European Union (CJEU), D. Case 6/64 (15 July 1964).

nature"<sup>12</sup>. The CJEU addressed the conflict between internal law and EU law concerning the nationalization of the electricity sector in Italy. The Court declared that EU law supersedes national law, thereby ensuring the uniform application and efficiency of Community provisions across all Member States.

Although the CJEU later underscored the independent nature of Community law in various rulings, it did not provide a more comprehensive theoretical framework to clarify its significance. The Court considered the autonomy of Community law to be a fundamental principle, from which the CJEU derived two significant conclusions: 1) the validity of EU law can only be assessed based on its own provisions, which falls under the jurisdiction of CJEU, and 2) Member States' constitutions cannot undermine the EU Law primacy<sup>13</sup>.

The third justification for the EU law primacy in CJEU case law is the necessity for effective and uniform application of Community provisions. In its ruling on the *Walt Wilhelm case*<sup>14</sup>, the CJEU assessed whether specific national measures align with EU law, particularly regarding trade regulations. The Court emphasized that allowing Member States to implement or retain measures that could undermine the efficiency of the EEC Treaty would be inconsistent with the nature of the Community legal order. This ruling contributed to the solidification of the primacy principle, highlighting that the coherence and uniform application of EU law are essential for the operating of the single market.

In the *Simmenthal SpA case*<sup>15</sup>, the CJEU addressed the correlation between Italian domestic and EU law concerning the importation of beef and related customs duties. The CJEU emphasized that, according to the primacy principle, any domestic law provisions that conflict with it are automatically rendered inapplicable. Additionally, the Court asserted that the primacy principle prohibits Member States from enacting new legislation that contradicts Community law. Failure to adhere to this could result in a "denial of the efficiency of the obligations that Member States have undertaken unconditionally and irrevocably under the Treaty," thereby threatening the very foundations of the Community<sup>16</sup>.

## B. Direct effect of EU law

The principle of direct effect indicates that an EU provision serves as a direct source of law for national courts or authorities. No additional implementing action is required for it to be applied within the national legal system<sup>17</sup>. This Principle allows individuals and entities to directly cite EU law before national courts, even in the absence of implementing legislation at the national level.

The doctrine of direct effect was first articulated in case of *Van Gend en Loos*<sup>18</sup> in 1963. This case arose when a Dutch transport company challenged an increase in import duties that contradicted the European Economic Community (EEC) Treaty's provisions on the free movement of goods. The CJEU ruled that provisions of EU law could confer rights on individuals, which national courts were obliged to protect. This decision established the principle that EU law is not merely an obligation imposed on Member States but can also create enforceable rights for individuals within those states. The ruling marked a significant departure from the traditional view of international law, where treaties typically did not confer rights on private individuals directly.

Following the *Van Gend en Loos case*, the CJEU further clarified and expanded the direct effect doctrine in later rulings. Notably, in *Costa case*, the Court emphasized the EU law primacy over national law,

<sup>12</sup> Kwiecien, "The Primacy of European Union Law over National Law under the Constitutional Treaty", 1480.

<sup>13</sup> Court of Justice of the European Union (CJEU), D. Case 11/70 (17 December 1970); Court of Justice of the European Union (CJEU), D. Case 314/85 (22 October 1987).

<sup>14</sup> Court of Justice of the European Union (CJEU), D. Case 14/68 (13 February 1969).

<sup>15</sup> Court of Justice of the European Union (CJEU), D. Case 106/77 (9 March 1978).

<sup>16</sup> Kwiecien, "The Primacy of European Union Law over National Law under the Constitutional Treaty", 1482.

<sup>17</sup> Bobek, "The Effects of EU Law in the National Legal Systems", 157.

<sup>18</sup> Court of Justice of the European Union (CJEU), D. Case 26/62 (5 February 1963).

reinforcing that Member States could not invoke their domestic laws to provide a rationale for failing to meet EU obligations. This case solidified the idea that EU law has a unique status, capable of directly impacting individual rights and obligations. Over time, the CJEU has continually honed the standards for direct effect, addressing both vertical and horizontal direct effect in numerous judgments<sup>19</sup>.

The origins and evolution of direct effect can also be traced through significant treaties and regulations that have shaped the legal landscape of the European Union. The Treaty of Rome, established in 1957, laid the groundwork for the creation of a common market and facilitated the development of direct effect principles. Subsequent treaties, including the Maastricht Treaty and the Lisbon Treaty, have further integrated EU law within the legal frameworks of Member States<sup>20</sup>. Additionally, various EU regulations and directives have been crucial in identifying the frame and application of direct effect, as these legal instruments often explicitly state their direct applicability or effect. The interplay between these treaties and the evolving case law has established a robust foundation for the direct effect doctrine.

Direct effect can be categorized into two types: vertical and horizontal. Vertical direct effect occurs when individuals can invoke EU law against the state or its organs, while horizontal direct effect allows individuals to rely on EU law in disputes with other private parties<sup>21</sup>.

According to Vertical direct effect, EU law determines rights for individuals that should be protected by national courts. Vertical direct effect is primarily applicable to regulations and certain directives that are sufficiently clear, precise, and unconditional. For example, if a directive puts an obligation on a Member State to achieve certain objectives by a set deadline, individuals can invoke that directive in court if the Member State does not exercise it correctly<sup>22</sup>. This mechanism empowers citizens, giving them a tool to challenge governmental actions or omissions that contravene EU law, thereby reinforcing the principle of EU law primacy over municipal law.

In contrast, horizontal direct effect pertains to the relationship between private parties, such as individuals and businesses. While the CJEU has been more cautious in recognizing horizontal direct effect, it has allowed for certain provisions of EU law to be invoked in disputes between private parties<sup>23</sup>. This is especially apparent in the context of directives that are directly applicable and confer rights.

It is important to mention that the scope of horizontal direct effect is limited. The CJEU has generally ruled that directives, as opposed to regulations, do not possess horizontal direct effect unless they can be construed in a way that upholds the rights of individuals and private entities engaged in disputes. This limitation means that individuals may not always be able to invoke directives against other private parties, which raises questions about the efficiency of EU law in providing comprehensive protection of rights in all contexts.

For direct effect to be applicable, certain conditions must be met. Firstly, the legal provision in question must be adequately clear, precise, and absolute. This means that the language of the law should not leave room for interpretation or discretion on the part of Member States. Secondly, direct effect generally applies to regulations, which are binding in their entirety and do not require transposition into municipal law.

On the other hand, directives are binding as to the result they seek to achieve but allow Member States the freedom to choose the means of implementation. Therefore, for individuals to rely on directives,

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<sup>19</sup> Robert Schutze, "From Dual to Cooperative Federalism: The Changing Structure of European Law", *European Journal of International Law* 21/ 4 (2010), 1123.

<sup>20</sup> Mendez, "The Legal Effect of Community Agreements", 99.

<sup>21</sup> Bobek, "The Effects of EU Law in the National Legal Systems", 160.

<sup>22</sup> Bobek, "The Effects of EU Law in the National Legal Systems", 161.

<sup>23</sup> Bobek, "The Effects of EU Law in the National Legal Systems", 161.

specific criteria must be satisfied, including the time frame for implementation and the clarity of the obligations imposed.

According to *Van Gend en Loos Case*<sup>24</sup>, Court indicated that a Treaty provision can have direct effects in the Member States if it is:

- Clear;
- Unconditional, meaning it does not permit any reservations from the Member States;
- Not dependent on any additional implementation measures to be adopted by the Members or the organization<sup>25</sup>.

However, case law has made these requirements more complex in two significant ways. First, treaty articles that were initially considered conditional or dependent on further implementation measures were ultimately acknowledged as having direct effect. Second, the concept of direct effect has been broadened to include additional sources of EU law, such as regulations, decisions, directives, and provisions of international agreements that the EU has signed<sup>26</sup>. However, the criteria for applying direct effect differ among these sources. Additionally, the actual implementation, particularly concerning the potential direct effect of international agreements, shows significant variation. Consequently, there remains a debate about whether EU law has a single form of direct effect or multiple variations.

The primary criteria established by the Court for direct effect today consist of three specific conditions that a directive provision must meet to be directly effective:

- It must be unconditional;
- It should be sufficiently precise;
- the Member State must have failed to transpose the directive.

A directly effective EU Law provision can function in various ways, primarily in two main directions. First, it can create a new rule that was not present in national law, which will then be applied to the current case. Second, alongside the primacy principle, it can block the application of an existing national rule that is inconsistent with it<sup>27</sup>.

### C. Principle of proportionality

Principle of proportionality is defined as a legal doctrine that requires a careful assessment of the correlation between means and ends in law and policy-making contexts. In the EU legal framework, it mandates that any restrictions imposed on rights or freedoms must be appropriate and necessary<sup>28</sup>. The significance of this principle lies in its ability to strike a balance between competing interests, whether they be individual rights, public safety, or economic objectives. It fosters a legal environment where actions are justified and proportionate, thereby reinforcing the rule of law within the EU.

This principle can be distilled into three core elements: suitability, necessity, and proportionality *stricto sensu*. Suitability requires that the measures adopted effectively achieve the desired aim; necessity mandates that no less restrictive alternative exists to achieve that end; and proportionality *stricto sensu* demands that the benefits of the measure must outweigh its negative consequences.

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<sup>24</sup> Court of Justice of the European Union (CJEU), D. Case 26/62 (5 February 1963).

<sup>25</sup> Bobek, "The Effects of EU Law in the National Legal Systems", 159.

<sup>26</sup> Alan Dashwood, "From Van Duyn to Mangold via Marshall: Reducing Direct Effect to Absurdity?", *Cambridge Yearbook of European Legal Studies* 9 (2007), 88.

<sup>27</sup> Bobek, "The Effects of EU Law in the National Legal Systems", 166.

<sup>28</sup> Kosta Vasiliki, "The Principle of Proportionality in EU Law: An Interest-Based Taxonomy", *EU Executive Discretion and the Limits of Law*, ed. Johana Mendes (Oxford: Oxford University Press, 2019), 198.

In practice, the principle of proportionality is applied by various EU institutions. It serves as a guiding principle in the formulation of legislation and policy, ensuring that proposed measures are scrutinized for their proportionality before implementation<sup>29</sup>. Moreover, it is frequently invoked in judicial review proceedings, where courts assess whether the actions of EU bodies or member states comply with the requirements of proportionality. Through this multi-faceted application, the principle not only enhances legal certainty but also promotes accountability and transparency in the EU's decision-making processes.

The proportionality principle is integral to the interpretation and application of EU law, as evidenced by several landmark rulings from the CJEU. A pivotal case is *Cassis de Dijon*<sup>30</sup> (1979), where the Court established that national measures restricting the free movement of goods must be necessary and suitable to achieve their objectives, exemplifying the balancing act inherent in the principle. This judgment underscored that while member states have the right to regulate, such regulations must not exceed what is necessary to achieve legitimate aims.

Another significant case is *Schmidberger*<sup>31</sup> (2003), where the CJEU emphasized the need to balance fundamental freedoms against other rights, such as the right to protest. The Court ruled that the Austrian authorities' decision to allow a truckers' protest, which temporarily obstructed a major highway, was proportionate because the action pursued a legitimate aim of protecting freedom of expression while causing only limited disruption to traffic. These cases illustrate how the proportionality principle acts as an essential mechanism for the judiciary to ensure that legislative measures do not impose excessive burdens or restrictions.

In the context of national legal frameworks, the proportionality principle requires member states to consider the implications of their national legislation in light of EU objectives. This includes determining whether national measures excessively limit the rights granted by EU law or whether they are warranted in pursuing legitimate goals. The proportionality principle fosters a balanced correlation between national interests and EU objectives, directing both EU institutions and member states in their lawmaking efforts.

Together, these principles form the bedrock of EU law, shaping its interaction with national legal frameworks and illustrating the EU's commitment to a cohesive and integrated legal order within its member states.

## II. Application of Principles in National Legislation

One of the primary goals of the European Union is to establish a single market that promotes the unrestricted movement of goods, services, capital, and individuals. The EU promotes the harmonization of laws among its member states, which refers to the process of aligning national legal systems with EU standards to ensure consistency and coherence across the union. By establishing common rules, the EU reduces legal barriers that could hinder trade and investment. However, the process of harmonization can vary depending on the specific legal area and the political will of member states. Member states are given deadlines to transpose directives into national legislation, which can lead to significant legislative activity within those states.

The implementation of EU directives often involves complex negotiations among various stakeholders, including government bodies, businesses, and civil society. This process can reveal tensions between EU requirements and national interests, particularly in areas where local laws are deeply entrenched or where there are concerns about economic or political sovereignty.

<sup>29</sup> Luke Dimitrios Spieker, *EU Values Before the Court of Justice: Foundations, Potential, Risks* (Oxford: Oxford University Press, 2023), 255.

<sup>30</sup> Court of Justice of the European Union (CJEU), D. Case 120/78 (20 February 1979).

<sup>31</sup> Court of Justice of the European Union (CJEU), D. Case C-112/00 (12 June 2003).

National courts play a significant role in the interaction between EU law and national legislation through the process of judicial review. When cases involving EU law arise, national courts interpret and apply both national and EU legal principles. This dual responsibility can sometimes lead to dilemmas, particularly when national laws contradict EU regulations.

In many instances, national courts have become key players in ensuring the EU law primacy and direct effect within their jurisdictions. They are often required to disapply conflicting national legislation in favor of EU law. Furthermore, national courts may refer questions of EU law to the CJEU for clarification, thus contributing to the development of EU jurisprudence.

### **A. Application of primacy principle**

The application of the Primacy Principle of EU law within the legal frameworks of member states represents a complex interplay between European integration and national sovereignty.

Germany's approach to the primacy principle is characterized by a delicate balance between European obligations and constitutional identity. The Federal Constitutional Court has recognized the EU law primacy but has also asserted the importance of the German Constitution. According to Lisbon Treaty, the Court emphasized that while EU law takes precedence, it does not permit a complete abdication of national sovereignty. This duality showcases Germany's commitment to European integration while safeguarding its constitutional framework<sup>32</sup>.

In France, the Constitutional Council has consistently upheld the primacy principle, affirming that EU law supersedes national legislation. However, it also maintains that fundamental rights outlined in the French Constitution must be upheld. The 2004 decision regarding the Charter of Fundamental Rights of the European Union illustrates this balance, where the Council deemed that EU law must align with the core principles of the French Constitution, thereby reinforcing the need for a harmonized legal framework<sup>33</sup>.

Italy presents a unique perspective on the application of the primacy principle, particularly through the rulings of the Italian Constitutional Court. The Court has acknowledged the EU law primacy while simultaneously asserting its duty to protect constitutional rights. In the 2014 ruling on the legality of EU regulations, the Court established that EU law must not contravene fundamental rights as outlined in the Italian Constitution. This case highlights the ongoing tension between EU obligations and national legal provisions, as well as the efforts to ensure that Italy remains an active participant in the European legal order<sup>34</sup>.

There are several challenges in implementing the primacy principle within member states.

- In instances where national laws are inconsistent with EU obligations, the principle of primacy needs amendments or annulments of such laws, which can lead to significant legal and political disputes.
- Some courts may be reluctant to apply EU law if it conflicts with established national legal traditions or interpretations. This resistance can manifest in judicial activism, where national courts prioritize domestic legal norms over EU obligations, thereby compromising the consistency of the EU legal framework.

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<sup>32</sup> Mattias Derlén - Johan Lindholm, "Characteristics of Precedent: The Case Law of the European Court of Justice in Three Dimensions", *German Law Journal* 16/5 (2015), 1078.

<sup>33</sup> Jan Zglinski, "The New Judicial Federalism: The Evolving Relationship between EU and Member State Courts", *European Law Open* 2/2 (2023), 355.

<sup>34</sup> Dante Figueira, "Italy: Law to Establish Compliance with European Union Obligations Enacted", <https://www.loc.gov/item/global-legal-monitor/2019-06-17/italy-law-to-establish-compliance-with-european-union-obligations-enacted/> (20 March, 2025)

- In some member states, there is a growing sentiment of Euroscepticism, leading to resistance against perceived encroachments on national sovereignty. This public sentiment can complicate the willingness of national authorities and courts to fully embrace the EU law primacy, creating potential barriers to its effective implementation.

## B. Application of direct effect

The principle of direct effect enables individuals to invoke certain EU provisions directly before national courts. This section will explore the two main types of direct effect: vertical and horizontal, each serving distinct functions within the legal framework of the EU.

Vertical direct effect refers to the capacity of individuals to rely on EU law provisions when bringing claims against Member States. This type of direct effect is primarily concerned with ensuring that individuals can enforce their rights derived from EU law against public authorities. For instance, if an EU regulation stipulates specific rights for consumers, individuals can invoke these rights directly against their local government or regulatory body that has failed to implement the regulation adequately<sup>35</sup>.

The case of *Van Gend en Loos*<sup>36</sup> established vertical direct effect by affirming that EU law creates rights for individuals that national courts must protect. The CJEU emphasized the need for individuals to have access to judicial recourse against the actions of their Member States. Subsequent cases, such as *Francovich case*,<sup>37</sup> further cemented this principle by holding that Member States could be liable for damages to individuals who suffer losses due to the failure to transpose EU directives into national law<sup>38</sup>.

The recognition of vertical direct effect imposes an obligation on national courts to ensure the effective protection of EU rights. This means that national judges must interpret domestic law in a manner consistent with EU law and, where necessary, set aside conflicting national provisions. The requirement for national courts to apply EU law reinforces the effectiveness of the legal order of the EU and enhances the role of individuals as active participants in the enforcement of their rights.

In contrast, horizontal direct effect relates to the capability of individuals to enforce EU law against other private entities, such as businesses or individuals. This type of direct effect is less established in EU law and is subject to certain limitations<sup>39</sup>. For example, if an EU directive aims to promote equal treatment in the workplace, an employee may seek to invoke this directive against their employer in a discrimination claim.

While the concept of horizontal direct effect is appealing, the CJEU has been hesitant to fully endorse it. The court has taken the position that directives, which are not directly applicable, cannot impose obligations on private parties. This stance was articulated in the case of *Faccini Dori*<sup>40</sup>, where the CJEU ruled that individuals cannot rely on directives against other individuals or entities. As a result, the scope of horizontal direct effect remains limited, leaving individuals with fewer avenues for redress against private actors.

However, recent developments indicate a potential shift in the judicial interpretation of horizontal direct effect. The CJEU has shown a willingness to recognize the indirect effects of directives, whereby national courts are required to interpret national law in light of EU law, even in disputes between private

<sup>35</sup> Bruno de Witte, "Direct Effect, Primacy, and the Nature of the Legal Order", *The Evolution of EU Law*, ed. Paul Craig et al. (Oxford, 2021), 201.

<sup>36</sup> Court of Justice of the European Union (CJEU), D. Case 26/62 (5 February 1963).

<sup>37</sup> Court of Justice of the European Union (CJEU), D. Case C-6/90 (19 November 1991).

<sup>38</sup> Court of Justice of the European Union (CJEU), D. Case C-6/90 (19 November 1991).

<sup>39</sup> Thomas Papadopoulos, "Criticizing the Horizontal Direct Effect of the EU General Principle of Equality", *European Human Rights Law Review* 4 (2011), 442.

<sup>40</sup> Court of Justice of the European Union (CJEU), D. Case C-91/92 (14 July 1994).

parties<sup>41</sup>. This approach was notably illustrated in the *Ajoie* case<sup>42</sup>, where the court emphasized the importance of interpreting domestic law to fulfill the goals of the directive, consequently improving the protection of individual rights in horizontal relationships.

In conclusion, the both types of direct effect play a crucial role in the enforcement of EU law within Member States. While vertical direct effect is well-established and widely recognized, horizontal direct effect remains more contentious, with ongoing developments in case law suggesting potential changes in its application. Understanding these distinctions is vital for grasping how EU law interacts with national legal systems and the rights of individuals across Europe.

## Conclusion

The influence of EU law on national legal frameworks shapes the legal landscape of member states in ways that resonate throughout their judicial and legislative processes. While the EU's legal framework, built upon the principles of primacy, direct effect, and proportionality, aims for a unified legal space across its member states, its practical application reveals some tension.

According to the discussed in previous chapters, implementation of the principles is related to some challenges. As member states navigate their obligations under EU law, they often encounter tensions related to sovereignty, constitutional principles, and the practical implications of harmonizing diverse legal traditions.

Member states must reconcile their rights to self-determination with the requirements imposed by EU legislation. This conflict is particularly pronounced in areas such as immigration, environmental policy, and economic regulation, where EU directives may clash with established national policies or public sentiment<sup>43</sup>. Countries may resist implementing EU laws that they perceive as infringing upon their sovereignty, leading to potential legal disputes and political friction within the Union.

In the context of rising nationalism and Euroscepticism, some member states may perceive the enforcement of the Primacy Principle as an infringement on their sovereignty. This perception could lead to increased calls for reform within the EU, including demands for greater respect for national legal systems and a rebalancing of power that acknowledges the unique identities of member states.

One of the main challenges lies in balancing adherence to EU obligations with the need to uphold constitutional integrity. For instance, some national courts have raised questions about the compatibility of certain EU regulations with their constitutional frameworks, prompting legal debates that can lead to prolonged uncertainty and judicial scrutiny<sup>44</sup>. One notable example is the ruling of the German Federal Constitutional Court in the *Weiss* case, where the court scrutinized the compatibility of EU monetary policy with German constitutional law. The court ultimately affirmed the EU law primacy while underscoring the importance of national constitutional identity, demonstrating the delicate balance that must be achieved<sup>45</sup>.

While EU courts set the framework and provide interpretation of EU law, national courts are tasked with applying these principles. However, differences in the willingness of national courts to refer questions to the CJEU for clarification can lead to inconsistent application of mentioned principles. For instance,

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<sup>41</sup> Nicole Lazzerini, "The Horizontal Application of the General Principles of EU Law: Nothing Less than Direct Effect", *Research Handbook on General Principles of EU Law*, ed. Katja Ziegler et al. Max Planck Institute for Comparative Public Law & International Law (MPIL) (Edward Elgar Press, 2022), 190.

<sup>42</sup> Court of Justice of the European Union (CJEU), D. Case C-58/08 (12 May 2011).

<sup>43</sup> Carmen E. Pavel, "The European Union and Diminished State Sovereignty", *Critical Review of International Social and Political Philosophy* 25/4, (2022), 600.

<sup>44</sup> Peter Van Elsuwege - Femke Gremmelprez, "Protecting the Rule of Law in the EU Legal Order: A Constitutional Role for the Court of Justice", *European Constitutional Law Review* 16/1 (2020), 29.

<sup>45</sup> Felix Arndt, "The German Federal Constitutional Court at the Intersection of National and European Law: Two Recent Decisions", *German Law Journal* 2/11 (2001), E4.

some of them may adopt a broad understanding of direct effect, allowing for a more expansive application of EU law, while others may adhere to a stricter interpretation that limits the scope of direct effect<sup>46</sup>. Such judicial divergences can create uncertainty and undermine the principle's intended purpose, leading to disparate outcomes for individuals seeking to invoke EU rights.

The examination of national constitutional court decisions in Germany, France, and Italy illustrated diverse approaches to balancing EU obligations with national constitutional values. These varied approaches demonstrate that the implementation of the primacy principle is neither monolithic nor straightforward, but rather, a complex process of negotiation and adaptation.

The harmonization of laws across the EU facilitates a more integrated market and promotes a level playing field for businesses and citizens alike. The implementation of EU directives obliges member states to adapt their national laws, fostering a dynamic interplay between EU mandates and local legal traditions. This process, while sometimes challenging, ultimately enhances the regulatory framework within which national courts operate, equipping them with the tools necessary to uphold EU law as a cornerstone of justice.

As legal systems continue to evolve in response to EU directives, the dialogue between EU law and national legislation will remain a critical area of focus for legal scholars, practitioners, and policymakers alike. The continued development of this relationship promises to shape not only the future of European law but also the broader political and social fabric of the EU itself.

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<sup>46</sup> Erika de Wet, "The Role of European Courts in the Development of a Hierarchy of Norms within International Law: Evidence of Constitutionalisation?", *European Constitutional Law Review* 5/2 (2009), 303.

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