
The European Court of Justice

The European Court of Justice (CJEU) has been the central authority responsible for shaping the legal regime of European Union (EU) and its Member States for the past thirty years, developing a relation between communal legal order and national laws thereby promoting uniformity in community law in all states of the EU through development of doctrines of Supremacy and Direct Effect. The European Community law dictates, in cases of conflict between EU law and law of Member States, EU law prevails.

This has been pronounced in *Van Gend en Loos* in 1963 where the CJEU stated 'the European Economic Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited fields'. The doctrine of Supremacy developed by CJEU has no formal basis in the Treaty of European Community.

But was developed by the CJEU on the basis of its conception of a 'new legal order'. In its landmark case, *Flaminio Costa v. ENEL*, the CJEU established a hierarchy between EU law and national law, stating that, 'by contrast with ordinary international treaties, the EEC Treaty has created its own legal system which, on the entry into force of the Treaty, became an integral part of the legal systems of the member states and which their courts are bound to apply'. Furthermore, 'the precedence of Community law is confirmed by Article 189, whereby a regulation 'shall be binding' and 'directly applicable in all Member States'. Bearing in mind the judgment of the *Ajos* case, this essay will critically analyze the questions raised about the supremacy of EU law clashed with institutional rationalities as a result of the decision of the Supreme Court of Denmark (SDK). By examining the relevant case law, it will evaluate whether the decision taken by the SDK is an illustration of judicial disobedience.

Furthermore, this essay will consider the established method of the SDK to see how far the law has gone and where it has refrained from going, potentially threatening the doctrine of the primacy of EU laws established by CJEU. The European Court of Justice (CJEU) has been the central authority responsible for shaping the legal regime of European Union (EU) and its Member States for the past thirty years, developing a relation between communal legal order and national laws thereby promoting uniformity in community law in all states of the EU through development of doctrines of Supremacy and Direct Effect.

The European Community law dictates, in cases of conflict between EU law and law of Member States, EU law prevails. This has been pronounced in *Van Gend en Loos* in 1963 where the CJEU stated 'the European Economic Community constitutes a new legal order of international law for the benefit of which the states have limited their sovereign rights, albeit within limited

Need help with the assignment?

Our professionals are ready to assist with any writing!

GET HELP

fields'. The doctrine of Supremacy developed by CJEU has no formal basis in the Treaty of European Community. But was developed by the CJEU on the basis of its conception of a 'new legal order'. In its landmark case, *Flaminio Costa v. ENEL*, the CJEU established a hierarchy between EU law and national law, stating that, 'by contrast with ordinary international treaties, the EEC Treaty has created its own legal system which, on the entry into force of the Treaty, became an integral part of the legal systems of the member states and which their courts are bound to apply'.

Furthermore, 'the precedence of Community law is confirmed by Article 189, whereby a regulation 'shall be binding' and 'directly applicable in all Member States'. Bearing in mind the judgment of the *Ajos* case, this essay will critically analyze the questions raised about the supremacy of EU law clashed with institutional rationalities as a result of the decision of the Supreme Court of Denmark (SDK). By examining the relevant case law, it will evaluate whether the decision taken by the SDK is an illustration of judicial disobedience. Furthermore, this essay will consider the established method of the SDK to see how far the law has gone and where it has refrained from going, potentially threatening the doctrine of the primacy of EU laws established by CJEU.

gradesfixer.com

Need help with the assignment?

Our professionals are ready to assist with any writing!

[GET HELP](#)