

The principle of primacy of application of EU law in the case law of the Spanish Constitutional and Supreme Courts

Abstract

The subject of this thesis is an analysis of the position of the Supreme Court of the Kingdom of Spain and the Constitutional Court of the Kingdom of Spain on the principle of primacy of the application of European Union law, as first established by the Court of Justice of the European Union in *Costa v. Enel*.

The thesis is logically structured, firstly, into a chapter dealing with the genesis and meaning of the concept of the primacy of application of EU law in the light of the case law of the high court and legal theory, followed by a chapter summarising the general principles advocated by the Spanish Constitutional Court in the relationship between the Kingdom of Spain as a Member State and the European Union. The next two chapters provide an analysis of two specific court cases and draw out the implications for individuals of the application of the principle of primacy of EU law. The last chapter and the conclusion offer a synthesizing view of the topic discussed.

The main contribution of the thesis is to introduce the doctrine of the Spanish Constitutional Court on the topic outlined above into the Czech environment, while its basic pillar can be considered to be the explicitly imported distinction between the supremacy (*supramacía*) of the Constitution of the Kingdom of Spain and the primacy (*primacía*) of the law of the European Union, which is, however, conditioned by compliance with the fundamental principles of the social and democratic rule of law established by the Constitution of the Kingdom of Spain.

Attention is also paid to the transfer of the exercise of the powers conferred on the Member States to the European Union and to the protection of fundamental rights and freedoms in cases with an 'EU element'. The main focus is on the analysis of the relevant case-law of the Court of Justice of the European Union, the Spanish high courts and not only Spanish literature. For the purpose of comparison, reference is also made to important decisions of other European constitutional courts, in particular the Constitutional Court of the Czech Republic and the German Federal Constitutional Court.

In the conclusion of the thesis, the author offers his view on the future development of the grasp of the contradictions between the law of the European Union and the law of the individual Member States.