

Supremacy of EU Law Revision Sheet

There are 2 narratives (understandings) on the nature of the EU legal order (relationship between the EU and national law) – The CJEU v National Court Institutions

CJEU's Narrative

Case 26/62 **Van Gend En Loos**

'the Community constitutes a new order of international law for the benefit of which the states have limited their sovereign rights'

The principle of supremacy comes from the case **Costa v ENEL**. It follows from the agreement of the member states in joining the EU:

'By contract with ordinary international treaties, the EEC treaty had created its own legal system which, with the entry into force of the Treaty, became an integral part of the legal systems of the member states and which their courts were bound to apply'.

'By creating a Community of unlimited duration, having its own institutions its own personality.... And more particularly, real powers stemming from a limitation of sovereignty or a transfer of powers from the States to the Community, the Member States have limited their sovereign rights, albeit within limited fields, and have thus created a body of law which binds both their nationals and themselves'.

The further effect from Costa is that a subsequent unilateral national act could not prevail over EU Law – EU law was placed at the top of the legal hierarchy.

Craig and De Burca referred to this as a contractual argument – i.e. the EU Law should be accorded primacy because it follows from the agreement made by the Member States when they joined the EU.

The effectiveness of EU Law

'The integration into the laws of each member state of provisions which derive from the community make it impossible for states, as a corollary, to accord precedence to a unilateral and subsequent measure over a legal system accepted by them on the basis of reciprocity'.

The court is thus concerned with the effectiveness of the EU law by ensuring that national courts enforce EU law over their own matters – EU law must be supreme over national law, demonstrating the supremacy of EU law.

The uniformity of EU Law

'Community law cannot vary from one member state to another in deference to subsequent domestic laws'.

This would undermine the need for the Community law to be uniformly and equally binding in all member states and jeopardise the attainment of the objectives of the Treaty. Community law should be equally applied across all member states.