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“ADVANCING DIVERSITY”

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The Primacy of EU Law over French Law: EU Law Takes Precedence over National Law?

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Introduction

This article focuses on France's reaction towards the supremacy of European Union (EU) law. It first explains the French court systems, and then it concentrates on whether the French courts have given superiority to EU law over their own law, particularly the French Constitution.

This article is a continuation of my previous three articles on the principle of EU law's supremacy over national law. The first one dealt with how and why the notion of the superiority of EU law has been developed by the European Court of Justice (ECJ) (Dorani, 2020a). The second one focused on whether the United Kingdom has accepted the supremacy of EU law (Dorani, 2020b). The third article concentrated on how the German courts have responded to the principle of the primacy of EU Law (Dorani, 2021).

France and its Different Court Systems

France is a monist state, meaning international law and internal law are part of one integrating system. Therefore, international law becomes part of the national law as soon as the former is ratified (UKEssays, 2018). Article 55 of the French Constitution 1958 implies the supremacy of international treaties over French law on the basis of reciprocity, as it provides 'Treaties or agreements which have been ratified or approved ...have higher authority than that of statutes, provided that the agreement or treaty in question is applied by other parts'. Reciprocity, incidentally, means France will accept the primacy of EU law over French law to the extent other Member States accept it.

There are two different court systems in France: Cour de Cassation (CC), the supreme judicial court, which deals with civil and criminal matters; and the Conseil d'Etat (CE), the Supreme Administrative Court, which has the task of reviewing the legality of administrative actions.

There is also the Constitutional Court, known as Conseil Constitutionnel Court. Unlike the German Constitutional Court, the French Constitutional Court's decisions are not binding on CC and CE. The Constitutional Court deals with the constitutional review of French law. But this court cannot be seized by private litigants but by the government and Members of Parliament (Alter, 2000: 127-8). Thus, it carries out a constitutional review in limited circumstances. Constitutional issues raised by the incompatibility of EU law with French law, repeatedly held by the Constitutional Court

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(*Conseil Constitutionnel decision*, 1976), were the CC and the CE's duty to resolve. Therefore, the main courts that this article considers are the CC and the CE, as they are the ones that deal with the issue of the primacy of EU law over national law.

The main legal issue in France was not whether EU law took precedence over the national law but whether the national courts were constitutionally competent to enforce EU law over the national law (Alter, 2000: 135). The CC held in *Vabre* (1975), in which a French Statute passed in 1966 was in conflict with Article 90 (ex 95) of the EU Treaty, that it had such a competence.

The CC and the Supremacy of EU Law

In *Vabre*, basing 'its decision on Article 55 of the Constitution as well as on the specific nature of Community law' (Horspool: 2003, 173), the CC held that the EU article took priority over the French Statute. Adolphe Touffait – the procureur General, who has a similar position to that of Advocate General in the ECJ – enormously influenced the decision by advising the CC to base its decision purely on the special legal order of the EU (Manin 1991: 505). Although the CC did not rely on the nature of the Treaty of Rome alone, it made clear that the EU legal order was directly applicable to the French nationals and binding on the French courts. Concerning the argument of reciprocity, as raised by the French authority, the court held that Article 227 (ex 170) empowered the Member States to bring an action against another Member State in breach of EU law. Since there was a procedure to remedy 'any lack of reciprocity, this could not constitute a legal ground for not applying the treaty' (Hartley, 1999: 243). By acknowledging the special nature of EU law and therefore giving it precedence over the French law, the CC expressly accepted the primacy of EU law, including the ruling of the ECJ in *Costa* (1964) (Dorani, 2020a).

On the other hand, the CE was not prepared to accept the special nature of EU law and constantly made decisions in conflict with EU law.

The CE and its Refusal of the Supremacy of EU Law

The CE, during the sixties, seventies and late eighties, never held that EU law was superior over French law, particularly statutes, by either claiming that it lacked the authority to question the legality of a statute or by adopting the doctrine of *Acte Clair*, meaning if a provision of the law was clear, there was no need to send it to a higher court to ask for clarity but to simply apply the provision (UKEssays, 2018). The CE adopted *Acte Clair*'s doctrine to avoid sending cases to the ECJ under the preliminary ruling. Although in the *Conseil d'Etat* decision of 19 June 1964 the EU law was far from clear, the CE held that the EU law was clear and there was no need for a preliminary ruling. Some saw this as an abuse of *Acte Clair*'s doctrine because the EU later stated that the EU law was indeed unclear. Further, the CE challenged 'one of the ECJ's main interpretative roles' by interpreting the EU law (Alter, 2000: 139-42).

In *Semoules* (1970), upholding the French Statute, the CE refused to claim that it had the competence to question the validity of the French legislation in breach of EU law. It lacked competence because it was the judge for the acts of 'executive, but it was not the judge for statute law' (Manin, 1991: 505). The CE's timidity to review a statute might have been the result of two authorities: the law of 16 and 24 August 1790, which expressly forbade the courts to obstruct or suspend decrees of a legislative body or any involvement in the exercise of legislative power. This law, incidentally, had been passed by the revolutionary legislator and had never been repealed (Manin: 1991, 501); and the *Arrighi* decision (1936) in which it had refused the authority to examine the validity of a statute.^[1] However, its *Semoules* decision put the CE in a 'complete contradiction with the rulings of the ECJ', which had held that the national court should set aside the national law of any nature in conflict with EU law (Dorani, 2020a)

During the seventies and the early eighties, there was both a political and judicial dislike towards the notion of EU supremacy established by the ECJ, in particular the decisions of *International Handelsgesellschaft* (1970) and *Simmenthal* (1978), as well as the direct effect of directives (Dorani, 2020a; Dorani, 2021; Alter, 2000: 155).

Not only the CE that challenged the European law but also the Constitutional Court as well as the French parliament.

The Constitutional Court and the French Parliament

The Constitutional Court expressly stated that the Treaty of Rome 1957 was just like any other treaty and, therefore, the EU should not encroach on French sovereignty (*Conseil Constitutionnel decision*, 1976). It, like the CE, refused its authority to apply Article 55 to enforce EU supremacy over national law, arguing it was the task of the CC and the CE (Pollard: 1990, 270). Karen Alter (2000: 151) argued, however, that the Constitutional Court's refusal to review indicated that to give supremacy to EU law was not constitutional review, but it was simply 'applying the EC Treaty'.

The National Assembly showed its rebellion, too, by passing a law to nullify those EU provisions and the ECJ's rulings that intrude its prerogative. It soon used this power to declare null an act of government, calling it unconstitutional (Alter, 2000: 152-3). It enacted another act incompatible with the ECJ's decision in 'its Opinion 1/78' (Douglas, 2002: 265). Further, the French parliament refused to implement a directive since it was 'a misappropriation of the procedure of the directive and a veritable usurpation of the legislative powers of the Member States' (Alter, 2000: 152). Michel Debre, the former Gaullist Prime Minister, accused the ECJ of having 'pathological megalomania...declaring what [was] and [was] not European law based on a pure invention of law' (Alter, 2000: 156), and, therefore, the government and the courts should declare the ECJ's decisions non-binding in France. Both he and the CE criticised the ruling of *Vabre*, and the former prepared a bill to pass to declare it illegal, but the Senate blocked it (Alter, 2000: 157)

Influenced by these political decisions, the CE made judgments that purposely contradicted the ECJ's jurisprudence. For example, it rejected the direct effect of directives in *Cohn-Bendit* (1980).

The CE and the Direct Effect of Directives

The CE held that an individual could not invoke the 64/221 directive to challenge administrative decisions since there was no direct effect of a non-implemented directive. The judgment was a 'clear and deliberate act of defiance' (Hartley, 1999: 245), as two days before the judgment, the deportation order claimed to have been in breach of the directive was revoked by the Interior Minister, anyway, and hence there was no legal need for the judgment. The CE struck a blow 'at the foundation of the community' (Hartley, 1999: 245) by going against the wishes of the ECJ since the CE was perfectly aware that the ECJ had already established that directives were capable of direct effect (*Van Duyn*, 1974; Dorani, 2020a). Paul Joan Geroge Kapteyn, a European court judge, called the decision a 'political inspired attack on the ECJ....[breaking deliberately] the very system of judicial cooperation of courts in a Community Context... [and it was] a declaration of war' (Alter: 2000, 154); a war in which the CE demonstrated that the ECJ would pay if it acted outside the power given to it by the Treaty.

However, it was argued that the CE did not deny all legal effects to directives in *Cohn-Bendit* and made it clear that the national authorities were obliged to implement directives to give effect to the will of directives. Further, it opened many legal routes 'for obtaining the application of a directive within the French administrative system' (Tatham, 1991: 910). For example, if a French measure improperly implemented a directive, or if a measure was in violation of a directive implemented, the CE would hold it invalid, as it did in two cases.^[2] According to Allan F. T. Tatham (1991: 910), for both of these cases, the authority was *Cohn-Bendit*.

Nevertheless, one wonders why the CE did not annul the national law in *Cohn-Bendit* since it violated the directive, too? However, the CE's rebellious approach towards both directly effective law and directives remained unchanged until the late eighties. It was in 1989 that it reversed its position and impliedly gave a positive response to the supremacy of EU law in *Nicolo* (1990).

The CE and its Implied Acceptance of the Supremacy of EU Law

In *Nicolo*, the alleged incompatible Statute was found to be compatible with EU law. By assessing the compatibility of the Statute with the EU Treaty for the first time, and by simply not holding that if such conflict existed, the CE impliedly recognised the EU supremacy. Further, the CE went against its assertion that it would not review the constitutionality of statute law, as by comparing the respective provisions, it 'indirectly' reviewed the constitutionality of the French Statute. Though it still did not recognise the special legal order of the EU, as it found the jurisdiction to assess the compatibility between EU law and national law under Article 55 of the Constitution rather than EU law itself. Whatever the legal authority for the

decision might have been, it was considered to 'present an incontrovertible advance' towards accepting the primacy of EU law (Manin, 1991: 501, 508-9, 519).

Alter (2000: 160-4) provided some reasons for the CE's sudden change of its jurisprudence in *Nicolo*, which could briefly be summarised as follows: a) the Constitutional Court changed its position by approving *Vabre*; b) the idea that the Constitutional Court decided one way and the CE another way was criticised as it produced uncertainty; c) the uncertainty enabled the Parisian Lawyers to successfully appeal to have cases concerning French competition law heard by the CC, as competition law was made at the EU level; d) the government put pressure on the CE to change its position to the extent the government appointed Marceau Long as the new Vice-President of the CE, who had a reputation for favouring the EU; e) and, France was twice condemned by the ECJ. Thus the CE had remained in isolation and had to change its *Semoules* position.

A year later, the CE expressly acknowledged the supremacy of EU law, including directives.

Express Acceptance of EU Law: The Reversal of *Cohn-Bendit*

The CE gave priority to a provision of EU regulation over a French statute (*Re Boisdet*, 1991). It firmly reversed its case law laid down in 1968 in *Semoules* since it both 'gave priority to an EU regulation over a subsequent national law and examined their compatibility' (Cohen, 1994: 139). Unlike in *Nicolo*, in *Re Boisdet*, neither did the CE refer to the French Constitution nor the Treaty to support its decision (Cohen, 1994: 149). This failure might suggest that the CE was willing to 'harmonise its case law with the case law of the [ECJ] established in *Simmenthal*', that is, 'every national judge...[was] obliged to apply the whole European legislation in the event of contradiction with [national law], whether the law [was] previous or subsequent to the [EU] law' (Cohen, 1994: 149). Its harmonisation with the ECJ's case law could be further witnessed in another two cases concerning EU directives (*Rathmans and Arizona Tobacco Products*: 1993).

In those cases, sections 6 and 10 of French law were incompatible with an EU directive. The court held that the sections in breach of the directive were void, and the applicants were awarded damages under state liability. These cases indicated three crucial changes in the CE's position. Firstly, the EU directive took priority over a statute, even in *Rothmans* the Statute was adopted later to the directive. (Incidentally, the directive concerned had been adopted in 1972 and, therefore, the effect of the directive 'operated via the [French] law and the decree.') Secondly, *Bandit* was no longer an authority in France. Thirdly, the CE awarded damages for losses incurred as a result of the French law in breach of the EU directive to the claimants (Hartley, 1999: 244, 256). This was consistent with the principle of State liability under *Francovich* (1991), which had suggested that the CE moved another step forward to harmonise its case law with the case law of the ECJ by embracing the principle of state liability.

In order to fully embrace the supremacy of EU law, the CE needed to give precedence to EU law over French Constitution. But it was not prepared to do this.

EU Law and the French Constitution

In 1998, the CE, in rejecting to review whether the Constitution complied with international law,^[3] held in *Sarran* (1998) that ‘international treaties do not derive a position superior to that of the Constitution within the national legal order from Article 55 of the constitution’, which suggested that the Constitution remained supreme within French legal system (Richards, 2000: 192). Many academics claimed that Article 55 could not be interpreted to accord supremacy to treaties over the French Constitution since Article 55 implied supremacy of international treaties over ‘lois’ (Statute) rather than over ‘lois constitutionnelles’ (Richards, 2000: 194). Thus the French Constitutional law was excluded. This indicated that France gave supremacy to EU law on the basis of its Constitution as opposed to international law, i.e. EU law. This position was surely in conflict with the ECJ’s ruling of *Internationale handelsgesellschaft*, in which it had held that EU law was superior to even constitutional law of the Member States (Dorani, 2020a).

However, the fact that Article 54 provided that the Constitution must be amended before an incompatible treaty was ratified (as was the case for the Maastricht Treaty, below) indicated that ‘it [was] international law which [had] supremacy over the Constitution as it [was] the latter that [was] changed to conform with the former and not the reverse’ (Richards, 2000: 196). Nonetheless, some French writers argued to the contrary, as the Constitution was amended to make sure there was no clause contrary to it, and hence it was the Constitution that was supreme (Richards, 2000: 196).

There had not been a direct conflict between EU law and the French Constitution, C. Richards wrote in 2000. He, nevertheless, pointed out that there were areas that a conflict might occur, including ‘fundamental rights, rights of asylum and the principle of the independence of Judiciary’ (Richards, 2000: 198; Dorani, 2019). If such a conflict occurred, the CE might follow *Sarran*. Another solution offered by a Constitutional Court’s report was to amend the Constitution (Richards: 2000, 198). The answer provided by the report was an indication that the Constitutional Court regarded the EU law even supreme to the Constitution. Furthermore, during the period the Lisbon Treaty was being made, it was suggested that France should do a ‘constitutional review’, but France never did it (UKEssays, 2018).

All in all, in light of the ruling in *Sarran*, one could claim that EU law had ‘supremacy only with regard to legal norms below the Constitution’ (Richards: 2000, 198). This ruling of the CE raised doubts about whether France really was monist since it, too, held that it would not accept the supremacy of EU law over the French Constitution.

Conclusion

There seems to be no issue regarding the CC's acceptance of the supremacy of EU law, as it consistently held that it had the jurisdiction to review the comparability of the French law with the EU law, and, therefore, constantly gave precedence to the EU law (*Vabre*, 1975).

Whereas the CE and the Constitutional Court were initially reluctant to review French law's comparability with EU provisions due to their jurisdiction limitations, and consequently refused to accept the supremacy of EU law, particularly directives (*Semoules*, 1970; *Cohn-Bendit*, 1980). However, towards the end of the nineties, their views changed, and both accepted the supremacy of directly effective EU law as well as directives (*Nicolo*, 1990; *Re Boisdet*, 1991; *Rothmans and Arizona Tobacco Products*, 1993). Further, the Constitutional Court amended the Constitution so that sovereignty could be transferred in the new areas. Article 88 (1-4) was added, which expressly mentioned France's membership of the EU being subject to the principle of reciprocity. The reasoning for the amendment was owing to the EU's 'permanent international organisations having legal personality and powers of decisions' (Steiner, 2003: 79), which was similar to that of the ECJ in *Costa* – an indication that the Constitutional Court accepted the ECJ's jurisprudence.

Thus, by the middle of the nineties, all French courts embraced EU law's superiority over French law. But the questions that remained unanswered were whether EU law was superior to the French Constitution? If so, whether the French courts accorded supremacy to EU law on the authority of the ECJ's jurisprudence or on the basis of the French Constitution? These questions were partly left unanswered because of the lack of clear statements in the CE's judgments.

Selected Bibliography

Books and Articles:

Alter Karen J. (2000) *Establishment the Supremacy of law. The Making of an International Rule of Law in Europe*, Oxford.

Cohen H. (1994) *The Conseil d'Etat: Continuing Convergence with the Court of Justice*. EL Rev.

Craig P. and De Burca G. (3rd ed.) (2002) *EC Law, Text, Cases and Materials*, Oxford.

Dorani Sharifullah (2019) *Shall the Court Subject Counter-Terrorism Law to Judicial Review?: National Security VS Human Rights*. Political Reflection Magazine, 22 October.

Dorani Sharifullah (2020a) *The Supremacy of EU Law over National Law: The ECJ's Perspectives*. Political Reflection Magazine, January/February 2020.

Dorani Sharifullah (2020b) EU Law vs UK Law – The Primacy of EU Law over National Law: Great Britain's Response. *Political Reflection Magazine*, 31 July.

Dorani Sharifullah (2021) The Supremacy of EU Law over German Law: EU Law vs National Law. *Political Reflection Magazine*, 8 January.

Douglas-Scott Sionaidh (2002) *Constitutional Law of the European Union*, Longman Pearson Publishers.

Hartley T. C. (1st edition) (1999) *Constitutional Problems of the EU*, Bloomsbury 3PL.

Horspool Margot (3rd ed) (2000) *European Union Law*, Butterworths.

Manin Philippe (1991) The Nicolo Case of the Conseil d'Etat (1991) CML Re.

Pollard David (1990) The Conseil d'Etat is European- Official. *ELRev*.

Richards C. (2000) Sarran et Levacher: ranking legal norms in the French Republic. *EL Rev*.

Steiner J. (8th ed) (2003) *Textbook on EC law*, Blackstone.

Tatham Allan F. T. (1991) The effect of EU Directive in France. *ICLQ*.

UKEssays. (November 2018). Supremacy of European Union Law in Germany and France. Retrieved from <https://www.ukessays.com/essays/law/supremacy-of-european-union-law-in-germany-and-france.php?vref=1>.

Cases and Treaties:

Arrighi decision, Conseil d'Etat decision of 6 Nov, 1936, [1936] *Recueil Lebon* 966.

Case 6, 9/90 *Francovich v Italy* [1991] ECR I-5357.

Case 6/64, *Flaminio Costa v. ENEL* [1964] ECR 585.

Case 11/70, *Internationale Handelsgesellschaft mbH v. Einfuhr- und Vorratsstelle fur Getreide und futtermittel* [1970] ECR 1125. Also known as *Solange I*.

Case 26/62, *NV. Algemene Transport- en Expeditie Onderneming Van Gend en Loos v Nederlandse Administratie der Belastingen* [1936] ECR I.

Case 41/47 *Van Duyn* [1974] ECR 1337.

Case 106/77, *Amministrazione delle Finanze dello Stato v. Simmenthal SpA* [1978] ECR 629.

CE, (Ass) (1998) *Sarran et Levacher, conclusions Ch maugue*, *Revue française de droit administrative*, October 30, n, 14, 1081.

Confederation nationale des sociétés de protection des animaux de France et des pays d'expression française case. administrative (1984).

Conseil Constitutionnel decision 74-71 DC of 29/30 Dec. 1976, [1976] Recueil des Decisions du Conseil Costitutionnel 15.

Federation francaise des societs de protection de la nature case administrative (1985).

Marleasing SA v La Comercial Internacional de Alimentacion SA [1990] ECR 1.

Minister of Interior v Cohn- Bendit [1980] 1 CMLR 543.

Nicolo [1990] 1 CMLR 17.

Rathmans and Arizona Tobacco Products [1993] 1 CMLR 252.

Re a Rehabilitation Center [1992] 2 CMLR 21.

Re Boisdet [1991] 1 CMLR 3.

Re Kloppenburg [1988] 3 CMLR.

Syndicat General de Fabricants de Semoules de France [1970] CMLR 395.

The Constitution of the Fifth Republic, adopted on 4 October 1958.

The EU (Rome) Treaty 1957.

The Maastricht Treaty 1992.

The Lisbon Treaty 2007.

Vabre [1975] 2 CMLR 336.

Vabre (Conseil Constitutionnel decision 86-216 of 3 Sep (1986).

Von Kempis v Geldof [1976] 2 CMLR 152, Administration des Douanes v Epuran et autres Cass. Crim., December 5, 1983.D. 1983.217.

Wunsche Handelsgesellscaft [1987] 3 CMLR 225. Also referred as *Solange II*.

[1] Whereas, the CC followed its decision of 1931 in which it had stated that the court should assume that 'the legislature did not intend to contravene international law unless the law specifically said otherwise (Alter, 2000,136).

[2] *Confederation nationale des societies de protection des anima de France et des pays d' expression francaise case. administrative* (1984); *Federation francaise des societs de protection de la nature case administrative* (1985).

[3] Articles 2, 25, and 26 of the International Covenant on Civil and Political Rights, Article 14 of the European Convention on Human Rights, and Article 3 of the first protocol to the Convention (Richrds, 2000: 192).



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