

# The relationship between national and Union law – supremacy, direct effect, indirect effect

Daniel Sarmiento

University Complutense of Madrid

European Court of Justice

# I. THE ESSENTIALS

- Interdependent principles
- Creating an autonomous legal system
- Self-assertion and conflict
- Direct effect and primacy as existential and operative principles of EU Law

## II. DIRECT EFFECT

### ➤ The essentials

➤ Van Gend en Loos (26/62)

➤ Direct effect of Treaties

➤ Direct effect of Secondary Legislation, in particular Directives

➤ Van Duyn (41/74)

➤ Von Colson (14/83) and Marleasing (106/89)

➤ Arcaro (168/95)

➤ Inter-Environnement Wallonie (C-129/96)

## II. DIRECT EFFECT

### ➤ Moving on

- Küçükdeveci (C-555/07): full horizontal direct effect
- Audiolux (101/08): defining principles
- Adeneler (C-212/04): interim conform interpretation

# III. PRIMACY

## ➤ The essentials

### ➤ Normative primacy:

➤ Costa/Enel (6/64)

➤ Internationale Handelsgesellschaft (11/70)

### ➤ Applicative primacy

➤ Simmenthal (106/77)

➤ Factortame (C-213/89)

➤ Costanzo (103/88)

### ➤ National Counter-reactions

# III. PRIMACY

## ➤ Moving on

- The ECJ-priority issue (Küküçdeveci)
- The Constitutional Court's-priority issue (Melki, C-189,188/09)
- Challenging Constitutional Courts (Filipiak [C-314/08], Landtovà [C-399/09])
- Ultra vires scrutiny of EU acts, including ECJ judgments (Honeywell, 6.7.2010 – 2 BvR 2661/06).

## IV. THE LISBON CONTEXT: OPEN QUESTIONS

- Transitory effects of former third-pillar acts
- Foreign and Security Policy acts
- ECHR accession
- The European Patent Jurisdiction