
The Evolution of Direct Effect in the EU: Stocktaking, Problems, Projections (Abstract only)

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Focusing on the case law developed by the Court of Justice of the European Union since *Van Gend en Loos*, this article contends that three important shifts occurred concerning the effects of EU law in national courts since that case was decided. First, the existence of a particular category of ('direct effect') EU norms, which implies a process of selection among EU law provisions, is no longer as problematic as the method of comparison and combination of norms in judicial reasoning that has become a vehicle for the penetration of EU law in courts. Second, the possibility for individuals to claim (subjective) rights on the basis of the Treaty is overshadowed by questions concerning obligations imposed by the Treaty on individuals, and more generally, on the methods through which this horizontal effect occurs. Third, the duty for national courts to apply EU law provisions directly (direct enforcement) is now coupled with one prior question that these courts have to address, and which has become much more sensitive than before in view of the growing centrality of fundamental rights' protection in the EU system: the question of the applicability of EU and national (constitutional) law. Having examined these three shifts, the article concludes that it has become urgent to reconsider the effects of EU law in member states in order to avoid a decline of individual rights and freedoms resulting from EU law enforcement. Thus, 'Revisiting *Van Gend en Loos*' leads to a reflection on the hypothesis, in which EU law should yield and national courts should be granted more discretion, when confronted with the resisting substance of national law (especially fundamental rights or freedoms protected by national constitutions).

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