10. The Relationship Between EU Law and National Law: Supremacy

All books in this flagship series contain carefully selected substantial extracts from key cases, legislation, and academic debate, providing students with a stand-alone resource. This chapter discusses the doctrine of supremacy of EU law, which was developed by the European Court of Justice (ECJ) based on its conception of the ‘new legal order’. The ECJ ruled that the aim of creating a uniform common market between different states would be undermined if EU law could be made subordinate to national law of the various states. The validity of EU law can therefore, according to the ECJ, never be assessed by reference to national law. National courts are required to give immediate effect to EU law, of whatever rank, in cases that arise before them, and to ignore or to set aside any national law, of whatever rank, which could impede the application of EU law. Thus, according to the ECJ, any norm of EU law
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takes precedence over any provision of national law, including the national constitutions. This broad assertion of the supremacy of EU law has not however been accepted without qualification by national courts, and the chapter examines the nature of the qualifications that have been imposed by some national courts. The UK version contains a further section analysing the relevance of the supremacy of EU law in relation to the UK post-Brexit.

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