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NATIONAL SOVEREIGNTY AND THE PRINCIPLE OF PRIMACY IN EU LAW
(THESIS BOOKLET)

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NATIONAL SOVEREIGNTY AND THE PRINCIPLE OF PRIMACY IN EU LAW

Part I – Brief summary of the research task

1. Introduction

The relationship between national sovereignty and the primacy of European Union law is one of the most enduring constitutional questions arising from European integration. Since the establishment of the European Communities, the legal relationship between the European level and the Member States has developed considerably. What began as cooperation between sovereign states in specific areas of economic and political activity gradually developed into a distinctive legal and constitutional order. Today, EU law regulates a wide range of areas affecting individuals, businesses, public authorities and national institutions. The effectiveness of this legal order depends to a significant extent on the principle that EU law must be applied uniformly and must prevail where it conflicts with national law. At the same time, the Member States have not ceased to be constitutional states. Their constitutions continue to establish democratic institutions, protect fundamental rights and define the distribution of public authority. National constitutional courts therefore continue to regard themselves as guardians of the constitutional order from which their own authority derives. This creates a structural tension. The EU legal order requires primacy in order to function effectively, while national constitutional orders retain claims to authority based on democratic legitimacy and constitutional sovereignty. The central issue examined in this dissertation is therefore not simply whether EU law is superior to national law. The more difficult question is how the principle of primacy should operate within a Union whose legal authority ultimately rests on the participation and consent of its Member States.

The research approaches this question from the perspective of EU constitutional law. It examines the development of the principle of primacy, the constitutional responses of selected Member States and the theoretical approaches that have emerged to explain the relationship between the EU and national legal orders. Particular attention is given to Germany, Italy, Poland and Slovakia, as these jurisdictions demonstrate different forms of acceptance, qualification, resistance and dialogue concerning the authority of EU law. The research begins from the premise that European integration has transformed the traditional understanding of sovereignty rather than simply eliminating it. Member States have transferred or, more precisely, conferred certain competences on the Union, enabling EU institutions to exercise authority within the

fields covered by the Treaties. At the same time, Member States have retained constitutional structures and competences of their own. The resulting system cannot therefore be described adequately either as a traditional international organisation or as a single centralised state. This distinctive character of the EU is reflected in the jurisprudence of the Court of Justice of the European Union. Through a series of landmark judgments, the Court developed principles that have become fundamental to the operation of EU law. Among the most significant are direct effect, the autonomy of EU law and the primacy of EU law over conflicting national provisions.

The judgment in *Van Gend en Loos* established the principle that EU law could confer rights on individuals that national courts were required to protect. In *Costa v ENEL*, the Court went further by explaining that the special nature of the Community legal order would be undermined if Member States could subsequently override Community obligations through national legislation. The principle was reinforced in *Internationale Handelsgesellschaft*, where the Court maintained the autonomy of EU law even in relation to national constitutional norms. In *Simmenthal*, the Court clarified the practical consequences of primacy for national courts. These judgments were fundamental to the development of European integration because they ensured that EU law could operate consistently across the Member States. Without primacy, the application of EU law could depend upon the constitutional rules of each individual state, potentially producing different legal outcomes in different jurisdictions. However, the constitutional development of EU law did not occur in isolation. National constitutional courts responded to the growing authority of the European legal order and gradually developed their own doctrines concerning the limits of European integration. These responses have included fundamental-rights review, constitutional identity review and ultra vires review.

The German Federal Constitutional Court has been particularly influential in this development. Its jurisprudence demonstrates that acceptance of EU integration does not necessarily imply acceptance of unlimited European authority. Similar issues can be observed in Italian constitutional jurisprudence, where the relationship between EU law and fundamental constitutional principles has been considered over several decades. More recent developments in Poland have demonstrated how questions concerning primacy can become closely connected with broader constitutional disputes. Slovakia provides another perspective, illustrating that the relationship between national constitutional law and EU law is not confined to the largest or most institutionally influential Member States. These developments have contributed to a broader academic debate concerning constitutional pluralism. Constitutional pluralism

challenges the assumption that constitutional authority in Europe must ultimately belong to a single legal order. Instead, it recognises that the EU and its Member States possess different but interconnected constitutional claims. This does not necessarily mean that every constitutional court should be free to disregard EU law whenever it considers national constitutional interests to be important. Such an approach would seriously undermine the uniformity and effectiveness of the Union's legal order. Rather, constitutional pluralism can be understood as a framework for explaining how competing claims to authority can coexist and be managed through judicial dialogue and constitutional cooperation.

The dissertation therefore investigates whether the relationship between national sovereignty and EU primacy can be understood through a model that preserves the effectiveness of EU law while also recognising the continuing constitutional role of the Member States.

2. Research problem

The central research problem arises from the fact that EU primacy and national constitutional sovereignty are both essential components of the European constitutional structure, yet they can point in different directions. From the perspective of the CJEU, primacy is necessary because EU law must be capable of producing the same legal effects throughout the Union. If national courts could decide independently whether EU law should apply, the common legal order would become fragmented. The authority of EU institutions would also depend upon the constitutional preferences of individual Member States. From the perspective of national constitutional courts, however, the European legal order operates within constitutional systems that possess their own sources of legitimacy. National constitutions establish the democratic framework within which public authority is exercised. They also contain fundamental principles that may be regarded as essential to the identity of the constitutional state.

The difficulty is therefore not simply a conflict between two courts. It is a conflict between different conceptions of constitutional authority. The question becomes particularly difficult when an EU measure is alleged to exceed the competences conferred on the Union or to interfere with fundamental constitutional principles. In such circumstances, a national constitutional court may consider that it has a responsibility to intervene. The CJEU, on the other hand, may regard such intervention as incompatible with the autonomy and primacy of EU law. This creates what may be described as a constitutional boundary problem. Both legal orders claim authority, but they derive that authority from different constitutional sources. The

dissertation examines whether this tension can be addressed without reducing the relationship to an absolute hierarchy. It asks whether the constitutional structure of the EU can accommodate both the effectiveness of EU law and the continuing constitutional identity of the Member States.

3. Main research question

The main question of research is:

How can national sovereignty and the principle of primacy in EU law be reconciled in a manner that preserves both constitutional identity and the effective functioning of the Union's legal order?

This question is deliberately framed as a question of reconciliation rather than superiority. The purpose of the research is not to establish that either national constitutional law or EU law should always prevail. Instead, it examines the constitutional principles that determine how conflicts should be approached. The question also reflects the changing nature of European integration. The EU is neither a conventional international organisation nor a federal state in the traditional sense. It occupies a distinctive constitutional space in which authority is divided between different levels.

4. Subsidiary research questions

The main question is addressed through several subsidiary questions.

First, what are the legal and constitutional foundations of the principle of primacy?

Second, how has the CJEU developed the principle through its case law, and how have national constitutional courts responded to this development?

Third, what limits have national constitutional courts attempted to place on the authority of EU law, particularly through constitutional identity and ultra vires review?

Fourth, should the relationship between EU law and national constitutional law be understood primarily as a hierarchy or as a pluralist relationship involving different constitutional orders?

Fifth, what role can the principle of sincere cooperation under Article 4(3) TEU play in managing constitutional disagreements?

Finally, can the existing constitutional framework provide sufficient legal and institutional mechanisms for addressing conflicts between EU primacy and national constitutional authority?

5. Objectives of the research

The dissertation pursues several connected objectives. The first objective is to trace the development of the principle of primacy from the early case law of the CJEU to more recent constitutional disputes. The second is to examine the responses of national constitutional courts and identify the constitutional principles that have influenced those responses. The third is to compare the approaches adopted in Germany, Italy, Poland and Slovakia. The comparison is intended to demonstrate that constitutional responses to EU law are not uniform and that different constitutional traditions may lead courts to frame similar problems differently. The fourth objective is theoretical. The dissertation examines whether concepts such as constitutional pluralism and judicial dialogue provide a more convincing account of the EU constitutional order than a purely hierarchical model. The fifth objective is to consider the practical implications of these competing approaches. In particular, the research asks how legal certainty, the uniform application of EU law, constitutional identity and democratic legitimacy can be accommodated within a single constitutional framework.

6. Hypotheses

The dissertation is based on three principal hypotheses.

H1: The current formulation and application of the principle of primacy is insufficient by itself to prevent recurring constitutional conflicts between the EU and national legal orders.

H2: National constitutional identity clauses and constitutional review mechanisms continue to challenge an understanding of EU primacy as absolute and unlimited.

H3: A pluralist and cooperative constitutional model can provide a more sustainable framework for balancing EU primacy with national constitutional authority.

The hypotheses are not treated as assumptions to be confirmed in advance. They provide an analytical framework against which the results of the doctrinal and comparative research are evaluated.

7. Significance of the research

The significance of the research lies in the fact that disputes concerning primacy have consequences beyond the immediate cases in which they arise. The uniform application of EU law is important for the functioning of the internal market and for the protection of rights arising under EU law. Individuals must be able to rely on EU rules without the application of those rules varying fundamentally according to the Member State in which they are located. At the same time, constitutional legitimacy remains important. The EU exercises substantial public authority, but its competences are based on the Treaties and therefore on the participation of the Member States. National constitutional institutions remain responsible for maintaining the constitutional framework through which democratic authority is exercised at national level. The tension between these two dimensions makes the issue relevant not only to legal theory but also to the practical functioning of the European Union.

Part II – Conducted research, methods and use of resources

1. Research approach

The dissertation employs a doctrinal legal research methodology combined with comparative constitutional analysis and theoretical examination. Doctrinal research was necessary because the principal subject of the dissertation is the meaning and development of legal principles. The research therefore concentrated on primary legal sources, including the EU Treaties, relevant provisions of national constitutions and judgments of the CJEU and national constitutional courts. The comparative element was introduced to avoid analysing the relationship between EU law and national constitutional law through the experience of only one Member State. The four jurisdictions selected for detailed examination - Germany, Italy, Poland and Slovakia - demonstrate different constitutional traditions and different approaches to European integration. The theoretical element was used to place these legal developments within the broader debate about sovereignty, constitutional authority and constitutional pluralism.

The methodology is therefore qualitative rather than quantitative. The objective was not to measure the frequency of constitutional conflicts statistically, but to understand their legal reasoning, constitutional significance and implications for the European legal order.

2. Collection and analysis of legal material

The primary research material consisted of judgments of the CJEU and national constitutional courts, EU Treaty provisions and national constitutional provisions. The early case law of the CJEU was examined first because it provides the foundation for understanding the development of primacy.

Van Gend en Loos was considered in relation to the principle of direct effect and the emergence of individuals as participants in the EU legal order. The importance of this judgment lies in the recognition that European law was not merely a collection of obligations between states. It could also create legal rights enforceable by individuals before national courts. *Costa v ENEL* was examined as the principal foundation for the doctrine of primacy. The judgment established the idea that Member States could not allow subsequent national legislation to override obligations arising under European law. *Internationale Handelsgesellschaft* was particularly important for examining the relationship between EU law and national constitutional law. The case demonstrated the Court's insistence that the validity of EU law could not depend upon national constitutional standards being applied differently in each Member State. *Simmenthal* was examined from the perspective of the practical responsibilities of national courts. The case clarified that national courts must give effect to applicable EU law where national legislation conflicts with it.

These cases were treated as stages in a broader constitutional development rather than as isolated decisions. Together, they demonstrate the gradual emergence of the EU legal order as an autonomous system whose effectiveness depends on the primacy of its rules. The research subsequently examined more recent case law concerning constitutional identity, fundamental rights and the limits of EU authority. Particular attention was given to *Melloni*, which illustrates the relationship between EU law and national constitutional standards in the area of fundamental rights. The case is important because it demonstrates the tension between maintaining a common European standard and allowing Member States to apply higher national standards where this might affect the uniform application of EU law.

The research also examined the judgment of the German Federal Constitutional Court concerning the ECB's Public Sector Purchase Programme, commonly referred to as *PSPP*. This judgment was particularly significant because it raised questions concerning the boundaries of EU institutional authority and the relationship between the CJEU and a national constitutional court. The Polish case law was examined as part of the more recent development of constitutional conflicts concerning primacy, judicial independence and the relationship between national constitutional law and EU law. The Slovak constitutional context was examined to provide an additional Central European perspective and to demonstrate how questions of European legal authority interact with a national constitutional system outside the better-known German and Italian debates.

3. Comparative method

The comparative analysis was organised around several recurring themes. The first was the acceptance of the principle of primacy. The research considered whether national constitutional courts accepted the principle without qualification or attempted to define conditions under which national constitutional review could still operate. The second theme was fundamental rights. The development of EU fundamental rights protection has been central to the relationship between the CJEU and national constitutional courts. National courts have historically been concerned that European integration should not result in lower constitutional protection for individuals. The third theme was constitutional identity. National constitutional identity has become increasingly important in judicial discussions concerning the limits of EU authority. The concept is not identical across Member States, but it generally refers to certain fundamental constitutional principles regarded as particularly important to the national constitutional order. The fourth theme was ultra vires review. This concerns the possibility that national courts may examine whether an EU institution has acted outside the competences conferred upon it. The fifth theme was judicial dialogue. Rather than focusing exclusively on moments of institutional conflict, the research examined mechanisms through which the CJEU and national courts can communicate and manage disagreements.

This comparative method allowed the dissertation to identify both common patterns and significant differences.

4. Countries analyzed:

In the dissertation, the author analyzes the jurisprudence of four countries: Germany, Italy, Poland and Slovakia.

Germany occupies a particularly important position in the development of national constitutional responses to European integration. The German Federal Constitutional Court has generally recognised the importance of European integration while maintaining that the German constitutional order retains certain responsibilities that cannot simply be transferred without constitutional consequences. The German jurisprudence is therefore significant because it illustrates how acceptance of EU primacy can coexist with claims concerning fundamental rights, constitutional identity and the limits of EU competences. The Court's jurisprudence has included several distinct stages. Earlier decisions focused strongly on fundamental rights protection. Later decisions increasingly addressed constitutional identity and the question of whether EU institutions had remained within the competences conferred upon them. The *PSPP* judgment became especially significant in this respect because the German Court questioned the proportionality reasoning of the CJEU and concluded that the CJEU had not sufficiently assessed certain aspects of the European Central Bank's programme. The judgment consequently generated substantial debate concerning the relationship between national constitutional courts and the CJEU. For the purposes of this dissertation, the importance of the German experience does not lie in treating it as a model to be adopted elsewhere. Rather, it demonstrates that a Member State can remain committed to European integration while simultaneously maintaining constitutional mechanisms through which the limits of that integration are considered.

The Italian experience provides a different but complementary perspective. The Italian Constitutional Court has developed its own jurisprudence concerning the relationship between European law and national constitutional principles. Over time, the Court has accepted the special nature of the European legal order while retaining the possibility of protecting certain fundamental principles of the Italian Constitution. The Italian approach is important because it demonstrates that constitutional tensions do not necessarily result in outright rejection of EU law. Courts may instead seek to establish boundaries within which EU law can operate while preserving certain constitutional guarantees. The Italian jurisprudence therefore contributes to the broader understanding of constitutional dialogue. It illustrates that the relationship between the CJEU and national constitutional courts can develop through a process of interaction rather than through a single definitive allocation of constitutional authority.

The Polish constitutional context demonstrates a more recent and particularly intense form of conflict concerning EU primacy. The disputes examined in the dissertation concern not only the relationship between EU law and national constitutional law but also broader questions regarding judicial independence, institutional competences and the limits of European integration. The Polish experience is particularly relevant because it demonstrates how the language of constitutional identity and national constitutional authority can become connected with wider disputes about the scope of EU obligations. At the same time, the Polish case law also illustrates the difficulty of distinguishing different types of constitutional disagreement. A dispute may concern the limits of EU competences, the interpretation of Treaty obligations, the organisation of national courts or the protection of constitutional principles. These issues may overlap, but they should not automatically be treated as identical. The Polish material was therefore analysed carefully in order to distinguish the legal arguments advanced by the relevant courts from broader political interpretations of those disputes.

Slovakia provides an additional perspective on the interaction between EU law and national constitutional law. Although the Slovak constitutional experience has not produced the same volume of internationally discussed constitutional conflicts as Germany or Poland, it remains relevant to the comparative analysis because it illustrates how the principles of EU integration are incorporated into another national constitutional system. The Slovak experience demonstrates that constitutional dialogue is not limited to the most prominent constitutional courts. The implementation of EU law ultimately takes place through national legal systems throughout the Union, and national courts remain important participants in ensuring that EU law and domestic constitutional principles function together. The inclusion of Slovakia therefore strengthens the comparative dimension of the dissertation by preventing the analysis from becoming concentrated exclusively on the largest Member States.

5. Most important concepts

Constitutional identity is one of the most difficult concepts examined in the dissertation. At its core, the concept reflects the idea that constitutional systems contain certain principles that are particularly closely connected to the identity of the state. These principles may concern democracy, fundamental rights, the rule of law, the organisation of state institutions or other elements of constitutional structure. Article 4(2) TEU recognises the importance of national identities inherent in the fundamental structures of Member States. The precise legal implications of this provision, however, remain subject to interpretation. Constitutional identity

can perform a legitimate constitutional function by recognising that European integration takes place within existing constitutional systems. At the same time, if interpreted too broadly, it could become a general exception to EU law. Every Member State could potentially invoke its own constitutional identity to resist EU obligations, which would weaken the uniformity of the Union legal order. The challenge is therefore to distinguish genuine constitutional concerns from an unrestricted claim of national constitutional preference. The research suggests that constitutional identity is most useful when understood as a principle requiring careful legal reasoning rather than as an automatic trump against EU law.

Ultra vires review concerns whether EU institutions have acted beyond the competences conferred upon them. The concept is directly connected with the principle of conferral. Under the Treaties, the Union does not possess general unlimited competence. Its authority derives from competences attributed to it by the Member States. This creates a constitutional question. If a national constitutional court believes that an EU institution has acted outside the scope of its competences, can the national court refuse to give effect to that act? The CJEU's position has generally emphasised the autonomy and uniformity of EU law. National courts, however, may regard competence review as a necessary consequence of the principle of conferral. The dissertation treats this as one of the central areas in which sovereignty and primacy intersect. It demonstrates that the debate is not simply about whether EU law is superior to national law. It also concerns the prior question of whether the EU institution has acted within the legal authority granted to it.

Fundamental rights provide another important area of constitutional interaction. The development of EU fundamental rights protection has strengthened the legitimacy of the EU legal order. At the same time, national constitutional courts have historically played an important role in protecting fundamental rights. This creates the possibility of both cooperation and conflict. If EU law establishes a common level of rights protection, national courts may sometimes wish to apply a higher national standard. However, allowing national courts to depart from common EU standards without restriction could undermine uniformity. The *Melloni* judgment illustrates this tension. The case demonstrates the difficulty of reconciling common European standards with national constitutional traditions when both claim authority in the field of fundamental rights. The issue therefore cannot be reduced to a question of whether European or national rights protection is generally preferable. The more precise question is how different levels of constitutional protection should interact within an integrated legal order.

The theoretical concept of *constitutional pluralism* provides an important framework for understanding these developments. A hierarchical model assumes that when EU law and national law conflict, a clear legal hierarchy determines which rule prevails. This model provides certainty and supports the uniform application of EU law. However, it does not fully explain why national constitutional courts continue to exercise constitutional review or why the EU itself depends upon national constitutional structures for the implementation of much of its law. Constitutional pluralism approaches the problem differently. It recognises the existence of multiple constitutional claims operating within the European legal space. The EU legal order and national constitutional orders are therefore neither completely separate nor completely absorbed into one another. They interact continuously. The strength of this approach is that it reflects the actual complexity of the European constitutional system. Its weakness is that pluralism can become unstable if there is no mechanism for resolving persistent disagreements. For this reason, the dissertation does not treat constitutional pluralism as a complete solution in itself. It is better understood as a framework that requires additional principles - particularly sincere cooperation, judicial dialogue, proportionality and respect for competences - to operate effectively.

Article 4(3) TEU establishes the principle of *sincere cooperation* between the Union and the Member States. This principle is particularly important in the context of constitutional conflicts because it suggests that the relationship between EU institutions and national authorities should not be based solely on competing claims to supremacy. National authorities are required to assist the Union in carrying out its tasks, while the Union is required to respect the Member States and their constitutional structures within the framework established by the Treaties. Judicial dialogue provides a practical expression of this relationship. The preliminary reference procedure under Article 267 TFEU is particularly important because it allows national courts to request authoritative interpretations of EU law from the CJEU. It creates an institutional mechanism through which differences in interpretation can be addressed within the EU judicial system. This mechanism does not eliminate constitutional disagreement, but it provides a means through which disagreement can be expressed and addressed legally.

The research therefore considers judicial dialogue to be an important element of any sustainable understanding of European constitutionalism.

Part III – Scientific results and possible practical application

The research demonstrates that the relationship between national sovereignty and EU primacy cannot be adequately described as a simple conflict between two mutually exclusive principles. The principle of primacy is essential to the operation of EU law. Without it, EU rules could be displaced by national legislation and the common legal order could become fragmented. Primacy therefore performs an essential structural function. At the same time, primacy does not exist in a constitutional vacuum. The EU derives its powers from the Treaties, while the Member States remain constitutional states with their own democratic institutions and fundamental principles. The resulting constitutional relationship is therefore characterised by both integration and limitation. European integration has altered the exercise of sovereignty, but it has not simply abolished national constitutional authority. Member States have agreed to exercise certain powers collectively while retaining other areas of constitutional responsibility. This finding is central to the dissertation.

The first hypothesis proposed that the current formulation and application of primacy is insufficient to prevent recurring constitutional conflicts. The research does not affirm this hypothesis in its strongest form. The continued existence of constitutional conflicts does not necessarily establish that the principle of primacy itself is defective. Conflicts may instead arise because the constitutional orders of the Member States continue to possess legitimate authority and because the boundaries between EU and national competences require interpretation. In other words, disagreement between courts should not automatically be treated as evidence that the principle of primacy has failed. The research therefore distinguishes between the effectiveness of primacy as a legal principle and the existence of constitutional disagreements concerning its scope. Primacy can remain effective while questions concerning the limits of EU authority continue to arise.

The second hypothesis proposed that national constitutional identity clauses and review mechanisms continue to challenge an understanding of EU primacy as absolute and unlimited. This hypothesis is supported by the comparative research. The experiences of Germany, Italy, Poland and Slovakia demonstrate that national constitutional courts continue to consider questions concerning constitutional identity, fundamental rights and the limits of EU competences. This does not mean that national constitutional courts reject EU law as a whole. Rather, they maintain that European integration operates within constitutional boundaries. The precise boundaries differ between jurisdictions, but the underlying issue remains similar: the

authority of EU law must be considered in relation to the constitutional framework of the Member States.

The third hypothesis proposed that a pluralist and cooperative constitutional model can provide a sustainable framework for balancing EU primacy with national constitutional authority. The research conditionally supports this hypothesis. Constitutional pluralism provides a useful description of the European constitutional structure because it recognises the coexistence of EU and national constitutional authority. However, pluralism cannot mean that every court has an unrestricted right to determine whether EU law applies. Such an approach would undermine the legal unity of the Union. A workable pluralist model therefore requires cooperation and restraint. The CJEU must take seriously the constitutional concerns raised by national courts, while national constitutional courts must also recognise the structural requirements of the EU legal order.

One of the principal practical arguments for primacy is legal certainty. Individuals and businesses operating within the Union need to know that EU law will be applied consistently. If each national constitutional court could independently decide whether an EU measure was valid, the same EU rule could potentially have different legal effects in different Member States. This would undermine the internal market and create uncertainty concerning the rights and obligations arising from EU law. For this reason, any model of constitutional pluralism must preserve a substantial degree of uniformity. At the same time, uniformity cannot be understood as requiring the complete disappearance of national constitutional review. The research demonstrates that national constitutional safeguards continue to form part of the constitutional environment in which EU law operates. The practical challenge is therefore to maintain uniformity while allowing genuine constitutional concerns to be addressed through structured legal mechanisms.

National constitutional orders are based on democratic institutions and procedures. The EU itself also possesses democratic and institutional structures, but its authority is constructed through the Treaties and the institutional framework established by the Member States. This raises an important constitutional question: how can the exercise of EU authority remain connected to the democratic foundations of the Member States? The answer cannot simply be that EU law always prevails because it is EU law. The authority of the Union must remain connected to the competences and constitutional arrangements established through the Treaties. This reinforces the importance of the principle of conferral. At the same time, national

sovereignty cannot be invoked to disregard legally binding obligations freely undertaken through the Treaties. Membership in the Union entails legal commitments, and the effectiveness of those commitments depends upon their consistent application. The research therefore identifies democratic legitimacy as an area in which both levels of the constitutional system have responsibilities.

The research suggests that constitutional identity should be treated as a genuine constitutional consideration but not as an unrestricted exception to EU law. The concept is particularly useful where a conflict concerns principles that are deeply embedded in a national constitutional order. However, constitutional identity must be identified through legal reasoning. Otherwise, any national preference could be presented as a constitutional identity concern. A structured approach would require courts to explain precisely which constitutional principle is at issue, why it has particular constitutional significance and how the relevant EU obligation affects that principle. Such reasoning can contribute to transparency and judicial dialogue.

The findings have several possible practical applications. First, they may contribute to a clearer understanding of the relationship between national constitutional courts and the CJEU. Second, they may assist in the interpretation of constitutional identity provisions and the principle of sincere cooperation. Third, they may contribute to academic and institutional discussions concerning the limits of EU competences. Fourth, the research may be useful for legal practitioners and judges dealing with cases in which EU law and national constitutional principles appear to conflict. Finally, the research contributes to the broader development of EU constitutional theory by showing why neither an exclusively state-centred nor an exclusively hierarchical approach fully captures the contemporary European legal order.

The principal scientific contribution of the dissertation lies in bringing together the doctrinal development of EU primacy, comparative national constitutional jurisprudence and the theoretical concept of constitutional pluralism. The research does not propose that national constitutional courts should replace the CJEU as the ultimate interpreters of EU law. Nor does it propose that national constitutional authority should disappear in favour of an unrestricted conception of EU supremacy. Instead, it identifies the constitutional relationship itself as the central object of analysis. The EU legal order depends upon national legal systems for implementation and enforcement. National legal systems, in turn, operate within a Union whose legal rules have been given binding force through the Treaties. This mutual dependence makes the relationship more complex than a simple hierarchy.

The resulting model does not remove constitutional disagreement. Instead, it provides a framework within which disagreement can be managed without necessarily becoming a fundamental challenge to the existence of the EU legal order.

Part IV – Publications related to the dissertation topic

The author's publication record reflects a broader research interest in the relationship between sovereignty, international and European law, constitutional identity, and the protection of rights within increasingly complex legal and political structures. The publications listed below form part of the author's wider scholarly work and provide complementary perspectives to the issues examined in the dissertation. While some publications address the principle of sovereignty and the limits of external intervention directly, others explore related questions of European legal protection, national identity, minority protection and the relationship between state autonomy and supranational or international legal frameworks.

The publication *State Sovereignty and International Law: Navigating Autonomy amidst Today's Global Challenges* provides a direct theoretical foundation for the dissertation's examination of sovereignty. It considers the continuing relevance of state sovereignty within an international legal order characterised by increasing interdependence and external legal constraints. The article contributes to the broader question of how state autonomy can be understood where states have accepted international legal obligations while retaining their constitutional identity and authority.

The author's forthcoming article *Sovereignty under Scrutiny: Theoretical and Practical Dimensions of Protecting States from External Intervention* develops this line of research further by examining sovereignty from both theoretical and practical perspectives. Its focus on external intervention and the protection of state autonomy complements the dissertation's analysis of the constitutional limits of European integration and the question of how far legal authority may extend beyond the national constitutional order.

The article *Slovakia and the Principle of Primacy in EU Law* is particularly closely connected to the dissertation. It examines the Slovak perspective on the principle of primacy and contributes to the comparative dimension of the dissertation, in which Slovakia is considered alongside Germany, Italy and Poland. The publication provides a more focused examination of the interaction between Slovak constitutional law and the EU legal order and therefore represents a direct extension of the dissertation's comparative research.

The publication *The Responsibility to Protect: Historical Context and Conceptual Foundations of Sovereignty* approaches sovereignty from a different but closely related perspective. By examining the historical development of sovereignty and the emergence of limitations connected with international responsibility, the article contributes to the author's broader inquiry into whether sovereignty should be understood as absolute authority or as a legal concept that operates within a framework of obligations and limitations. This perspective is relevant to the dissertation's discussion of the transformation of sovereignty within the European Union.

The article *Bilateral Mechanisms and the Protection of National Minorities Through History* extends the author's research into the relationship between state sovereignty, territorial authority and the protection of national identity. The historical examination of bilateral mechanisms provides an additional perspective on how questions traditionally associated with domestic jurisdiction may become subject to international and inter-state legal arrangements. This is relevant to the dissertation's broader consideration of national identity and constitutional autonomy.

The publication *Balancing Sovereignty and Environmental Justice: The Fitness of the European Convention on Human Rights to Address Climate Change*, co-authored with L Garayová, examines the tension between state sovereignty and the development of international and European human-rights obligations in the context of climate change. Although its substantive focus differs from EU primacy, the article addresses a common underlying question: how the autonomy of states interacts with external legal obligations and evolving forms of European legal protection. It therefore forms part of the wider research context in which the dissertation's analysis of sovereignty is situated.

Similarly, the forthcoming article *The Aesthetic Exception: Artistic Freedom under Article 10 of the European Convention on Human Rights* examines the relationship between individual rights, state authority and the limits imposed by European human-rights law. Its focus on Article 10 of the European Convention on Human Rights contributes to the author's broader interest in the interaction between national regulatory authority and supranational standards of rights protection.

Taken together, these publications demonstrate the development of a consistent research interest in sovereignty and its relationship with international, European and supranational legal orders. The publications approach this issue from several complementary perspectives, including EU law, international law, human-rights law, national identity, minority protection and the limits of external intervention. The dissertation brings these broader interests together

within a specific constitutional question: how national sovereignty can coexist with the principle of primacy in the European Union legal order.

List of publications:

- J Juharová and L Garayová, 'State Sovereignty and International Law: Navigating Autonomy amidst Today's Global Challenges' (2023) 12(2) *Acta Universitatis Sapientiae, Legal Studies* 95–114.
- J Juharová and L Garayová, 'Balancing Sovereignty and Environmental Justice: The Fitness of the European Convention on Human Rights to Address Climate Change' (2025) 2 *European Public Law and Order*.
- J Juharová, 'Slovakia and the Principle of Primacy in EU Law' (2027) 2 *Law, Identity and Values*.
- J Juharová, 'Bilateral Mechanisms and the Protection of National Minorities Through History' (forthcoming) *CEA Law Review*.
- J Juharová, 'Sovereignty under Scrutiny: Theoretical and Practical Dimensions of Protecting States from External Intervention' (forthcoming) 1 *European Integration Studies (EIS)*.
- J Juharová, 'The Aesthetic Exception: Artistic Freedom under Article 10 of the European Convention on Human Rights' (forthcoming) *Croatian Yearbook of European Law and Policy*.
- J Juharová, 'The Responsibility to Protect: Historical Context and Conceptual Foundations of Sovereignty' (forthcoming) *Croatian Yearbook of European Law and Policy*.

Part V – Candidate's individual contribution to collective research

The dissertation is the result of the author's independent academic research and scholarly work. The author independently formulated the research topic and developed the central research question concerning the relationship between national sovereignty and the principle of primacy in European Union law. The author also identified the principal legal and constitutional issues addressed in the dissertation and developed the research structure and methodology used throughout the study. The author independently conducted the research and analysis of the

relevant legal materials. This included the examination of the EU Treaties, relevant provisions of national constitutional law, and the jurisprudence of the Court of Justice of the European Union concerning the autonomy, effectiveness and primacy of EU law. The author independently selected and analysed the principal judgments relevant to the research, including *Van Gend en Loos*, *Costa v ENEL*, *Internationale Handelsgesellschaft*, *Simmenthal*, *Melloni* and *PSPP*. An important part of the author's individual contribution consists of the comparative analysis of the constitutional responses of Germany, Italy, Poland and Slovakia. The author examined the relevant constitutional jurisprudence of these Member States and analysed how their constitutional courts have approached questions concerning EU primacy, national sovereignty, constitutional identity, fundamental rights and the limits of EU competences. The author independently researched and analysed the concepts of constitutional identity, ultra vires review, the principle of conferral, sincere cooperation and constitutional pluralism. These concepts were examined in connection with the relevant case law in order to develop a broader understanding of the relationship between the EU legal order and national constitutional orders. The comparative and theoretical analysis was developed by the author with the purpose of determining whether the relationship between national sovereignty and EU primacy can be understood through a constitutional framework that preserves both the effectiveness of EU law and the constitutional identity of the Member States. The author was also responsible for the collection, selection and interpretation of the academic literature used in the dissertation. Relevant scholarly works concerning EU constitutionalism, sovereignty, primacy, constitutional pluralism and the relationship between the CJEU and national constitutional courts were examined and critically assessed. The author used these sources to place the relevant judicial decisions within their wider academic and constitutional context and to develop an independent analysis of the issues examined in the dissertation. The author independently developed the hypotheses addressed in the research and evaluated them in light of the findings arising from the doctrinal, comparative and theoretical analysis. The conclusions presented in the dissertation, including the assessment of the three hypotheses and the proposed understanding of the relationship between EU primacy and national constitutional authority, are based on the author's own research and analysis. The formulation of the arguments, analysis of the legal and academic sources, comparative assessment, development of the theoretical framework and formulation of the conclusions were carried out independently by the author. The dissertation therefore represents the author's own scholarly work and intellectual contribution. No collective research project, co-authored research or other collaborative scholarly work contributed to the research results presented in the dissertation. Accordingly,

there are no collective research contributions to be separately attributed to other researchers. The research, analysis, arguments and conclusions presented in the dissertation are the author's own.

Concluding statement

The relationship between national sovereignty and the principle of primacy remains one of the most important constitutional questions in the European Union. It is also a question for which there is no simple institutional answer. The development of EU law has created a legal order that requires primacy in order to function effectively. From *Van Gend en Loos* and *Costa v ENEL* onwards, the jurisprudence of the CJEU has progressively established the autonomy and effectiveness of EU law. National courts are consequently required to give effect to EU law within the scope of the Union's competences. Yet the development of EU law has taken place within, rather than outside, the constitutional systems of the Member States. National constitutions remain the foundations of democratic government at national level. Constitutional courts therefore continue to exercise responsibilities concerning fundamental rights, constitutional identity and the limits of public authority. The comparative research demonstrates that Germany, Italy, Poland and Slovakia have approached these questions in different ways. The differences are significant, but the cases also reveal a common underlying problem: European integration has created a system in which constitutional authority is exercised at more than one level. This makes the concept of sovereignty more complicated than it was in the traditional state-centred model. The Member States have not simply surrendered sovereignty to an external organisation. They have participated in creating a legal order in which certain competences are exercised collectively at Union level while substantial constitutional authority remains at national level. The principle of primacy must therefore be understood within this broader constitutional structure. The research does not support the conclusion that recurring constitutional conflicts demonstrate that primacy itself has failed. Rather, such conflicts demonstrate that the European constitutional order contains multiple sources of authority whose relationship continues to develop. At the same time, the research confirms that national constitutional identity and constitutional review remain relevant. National constitutional courts continue to regard certain principles as fundamental to their constitutional systems, and they may therefore seek to ensure that European integration does not eliminate the constitutional foundations on which national democratic authority rests. The concept of constitutional pluralism offers a useful way of understanding this reality. It

acknowledges that the EU and national constitutional orders coexist and interact without requiring the complete absorption of one order into the other. However, constitutional pluralism can function only if it is accompanied by legal discipline. Without respect for EU primacy, the common legal order could become fragmented. Without respect for national constitutional structures, European integration could lose part of its constitutional legitimacy. The principle of sincere cooperation is therefore particularly important. Constitutional disagreement does not necessarily have to result in institutional confrontation. Courts can communicate through legal procedures, preliminary references and reasoned judgments. They can recognise the constitutional concerns of the other legal order while maintaining their own responsibilities. The research ultimately points towards a model of structured constitutional pluralism. In such a model, EU primacy remains essential to the functioning of EU law, while national constitutional authority remains relevant within the constitutional framework established by the Treaties and national constitutions. Such an approach does not provide a permanent formula capable of eliminating every constitutional conflict. The European Union is a developing constitutional system, and questions concerning the distribution of authority will continue to arise as integration develops. The objective should therefore not be to eliminate constitutional disagreement entirely. It should be to ensure that disagreements are addressed through legal reasoning, institutional dialogue and respect for the competences of the different constitutional actors.

The central conclusion of the dissertation is accordingly that national sovereignty and EU primacy should not be understood as concepts that necessarily exclude one another. European integration has transformed the exercise of sovereignty, while the principle of primacy has transformed the operation of national legal systems. Their relationship is therefore one of continuing constitutional interaction. The effectiveness of the European legal order depends upon the application of EU law throughout the Member States. At the same time, the legitimacy and stability of that legal order depend upon recognition of the constitutional structures within which European integration operates. The future development of EU constitutional law will therefore continue to depend on finding an appropriate balance between unity and diversity, effectiveness and constitutional autonomy, European integration and national constitutional identity. It is within this space that the principle of primacy and the concept of sovereignty must ultimately be understood.