



# International law in the Norwegian legal system

- Dualistic system with some elements of monism
- International law rule must become a part of domestic law to become applicable/enforceable in Norwegian courts



- Presumption of conformity of Norwegian domestic law with international law (*Presumsjonsprinsippet*)
  - Generally co-incides with the principle of harmonious interpretation of Directives in EU law
  - National courts will try to interpret national provisions in such a way so as to avoid conflict with international law, to the extent possible
  - Finanger I -case
- Supremacy of domestic law in case of conflict between domestic and international rule (*Forrangsprinsippet*)



- Is EU law different from international law with regard to its implications on domestic laws of Member States?
  - Does EU law have direct effect in Member States?
  - Does EU law override conflicting national provisions?



# Relationship between domestic, international and EU law

- How will a conflict between EU and national law be resolved?
- Who can be granted enforceable rights under EU Law?
- What is the meaning of direct effect?
- What is the principle of supremacy?



UNIVERSITETET  
I OSLO

# Group work with assignments





# The direct effect of EU law

Case 26/62 *Van Gend en Loos* [1963] ECR 1



# The direct effect of EU law

- *Case 26/62 Van Gend en Loos* [1963] ECR 1
  - Infringement of Art 30 TFEU (then Art 12 EEC)
- Two aspects of ‘direct effect’:
  - EU law provides individuals as well as Member States with rights and obligations
  - Such rights and obligations are enforceable by national courts



# Conditions for direct effect as developed by ECJ

- Not all Treaty provisions are capable of having direct effect. Certain conditions must be met.
- Legal provision in question must be:
  - Sufficiently clear and precise
  - Unconditional (provision does not open for discretion not subject to judicial control)
  - Not subject to any further implementing measures by EU or national authority





- Vertical direct effect: Individual versus State
- Horizontal direct effect: Individual versus individual



- Regulations may have direct effect
- Directives?
  - As a starting point, not directly applicable as they require implementation (Art 288 TFEU)
  - May have direct effect, assuming certain criteria are satisfied (Van gend Loos criteria)
  - Only vertical direct effect



## Principle of harmonious interpretation of Directives – indirect effect

- National law must be interpreted in conformity with EU Directives.
- «in applying the national law and in particular the provisions of a national law specifically introduced in order to implement Directive ... national courts are required to interpret their national law in the light of the wording and purpose of the Directive in order to achieve the result referred to in [Art 288 TFEU]» (Van Colson



# Supremacy of EC Law

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

... the law stemming from the Treaty, an independent source of law, could not, because of its special and original nature, be overridden by domestic legal provisions, however framed, without being deprived of its character as Community law and without the legal basis of the Community itself being called into question.

Case C-213/89 *Factortame* [1990] ECR I-2433

Case 11/70 *Internationale Handelsgesellschaft* [1970] ECR 1125



# Supremacy of EU law

- EU law will always take precedence over conflicting sources of law (Costa v Enel)
- Including where conflicting national law was enacted after EU law (no lex posterior rule), Costa v Enel
- EU law is supreme over all sources of law, also constitutional principles (IHG)
- The national court hearing the action must immediately give effect to EU law (Simmenthal)