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Establishing the Supremacy of European Law: The Making of an International Rule of Law in Europe

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Political Science

Research output: Book/Report › Book

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Citations



Abstract

The most effective international legal system in the world exists in Europe. It works much like a domestic system, where violations of the law are brought to court, legal decisions are respected, and the autonomous influence of law and legal rulings extends into the political process itself. The European legal system was not always so effective at influencing state behaviour and compelling compliance. Indeed the European Community's original legal system was intentionally designed to have very limited monitoring and enforcement capabilities. The European Court of Justice transformed the original system through bold and controversial legal decisions declaring the direct effect and supremacy of European law over national law. This book starts where traditional legal accounts leave off. Karen Alter explains why national courts took on a role enforcing European law against their governments, and why national governments accepted an institutional change that greatly compromised national sovereignty. She then shows how harnessing national courts to funnel private litigant challenges through to the ECJ and enforce European law supremacy contributed fundamentally to the emergence of an international rule of law in Europe, where national governments are held accountable to their European legal obligations, and where states actually avoid policies that might conflict with European law.

ORIGINAL LANGUAGE	English (US)
PUBLISHER	Oxford University Press
NUMBER OF PAGES	284
ISBN (ELECTRONIC)	9780191717505
ISBN (PRINT)	9780199260997
STATE	Published - Jan 1 2010

Fingerprint

- Supremacy
- Rule Of Law
- Legal System
- Government
- European Court Of Justice
- Monitoring
- Enforcement
- Obligation
- Political Process
- Institutional Change
- Sovereignty
- Violations

Keywords

- Compliance
- Europe
- European Court of Justice
- European law supremacy
- Legal obligations
- Legal rulings
- State behaviour

ASJC Scopus subject areas

- Arts and Humanities(all)

Cite this

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Alter, K. (2010). *Establishing the Supremacy of European Law: The Making of an International Rule of Law in Europe*. Oxford University Press. <https://doi.org/10.1093/acprof:oso/9780199260997.001.0001>

Access to Document

 [10.1093/acprof:oso/9780199260997.001.0001](https://doi.org/10.1093/acprof:oso/9780199260997.001.0001)

 [Link to publication in Scopus](#)

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66 She describes the emergence of the 'international rule of law in Europe where violations of the law are brought to court, legal decisions are respected, and the autonomous influence of law and legal rulings extends to the political process itself [...] the governments are not above the law'. The EU Rule of Law: Cutting Paths through Confusion. Article. Full-text available. Dec 2008. The European Court of Human Rights (ECHR) is the most active international court. After decades with few allegations of human rights abuses, the ECHR docket expanded in the 1990s. Paradoxically, long-standing democracies can have standardized violation rates of the prohibition against torture that compare to transitional democracies that struggle to protect rights. European Foundation for the Improvement of Living and Working Conditions. The creation of a new legal order of EU law and its supremacy means that EU institutions may create rules affecting employment and industrial relations, even where some Member States oppose such rules and vote against them in those EU institutions, provided that a voting procedure based on a majority rule applies to that specific field. In the course of time, national constitutional courts have accepted the principles of supremacy of the EU law affirmed by the European Court of Justice, but at the same time they have envisaged a limit to it in the fundamental principles of each national constitution. Through the doctrine of supremacy, EU law has promoted the Europeanisation of