LEGAL AUTONOMY VS. POLITICAL POWER: WHAT IS THE ROLE OF THE EUROPEAN COURT OF JUSTICE IN THE EUROPEAN INTEGRATION?

Rufat R. Babayev[1]

Abstract. *The European Court of Justice, founded as one of the main institutions of the European Union, has greatly contributed to further deepen the integration process. At the same time, the ECJ is one of the most controversial institutions. The article strives to present the role of the Court of Justice within the European architecture, analysing the debate between the two most important theoretical frameworks in the field: the legal autonomy approach and the political power approach.*

Key words: *European Court of Justice, integration, legal authonomy, polical power approach*

Introduction

The European Court of Justice (ECJ) is one of the controversial institutions of the European Union regarding its role in the process of European integration. Scholars, as followers of different theoretical frameworks differently approach to the idea that ECJ is an autonomous actor and has its own say in the integration process. The main debate goes between two different schools, the legal autonomy approach and political power approach. The first approach is mainly defended by neo neo-functionalists and legalists. Although it can not be said that these two theorists have identical assumptions, both of them see the ECJ as a strategic actor who has been able to push forward its European integration agenda against the interests of member states[2].

In contrast to the legal autonomy approach, the theorists of the political power approach argue that ECJ has autonomy in the process of the European integration, but basically reflects the interests of member states, particularly powerful members like France and Germany. Rejecting the idea that ECJ furthers the integration process, theorists of the political power approach state that ECJ mainly got certain autonomy only to fill the gaps in the incomplete agreements that governments have signed and to increase their effectiveness[3]. ECJ in its turn accepts that its powers are based on satisfying the will of member states and is reticent to making judgments that member states will not approve.

Relying on the above mentioned debate between the two approaches, this paper argues that ECJ, being a supranational institution of the European Union, is one of the driver forces of the European integration process. ECJ, having an autonomous power,

[1] **Rufat R. Babayev** - LLB in International Law (Baku State University), MA in International Relations and European Studies (Central European University) and candidate of LLM in European Law (Leiden University)

[2] I inferred this from the articles of Karen J. Alter, Anne- Marie Slaughter and Walter Mattli, Anne- Marie Slaughter , Alec Stone and Joseph Weiler,

[2] I inferred this from the articles Geoffrey Garrett and Barry Weingast, Robert Cooter and Josef Drexel

independent of the member states' preferences and interests, plays a crucial role in the process of deepening of EU integration. The mere fact of the wide jurisdiction that ECJ possesses in the European Union and the cases whereby it ruled for supremacy of European Union law is clear evidence. Thus, this paper shares the assumption of the legal autonomy approach and argues that it reflects reality more accurately.

In order to prove my argument, and first of all to show ECJ's role in the European integration process, this paper analyzes its jurisdiction, precisely its preliminary rulings, based on the provisions of the existing Treaties and cases, which have an important role in shaping ECJ's role in the process of European integration. Then, referring to the above said debate, it presents the main ideas of the legal autonomy approach. Here, besides the legalists and neo neo-functionalists, it also focuses on the assumptions of theorists of historical institutionalism. Regarding the other side of the debate, the paper shows the position of intergovernmentalists, theorists of rational choice institutionalism and liberal intergovermentalism. Finally, relying on the main assumptions of both sides, this paper presents an overview of the core of the debate, focusing on the specific arguments of both sides and answers to each other.

The Jurisdiction of ECJ

The European Court of Justice, founded as a one of the main institutions of the European Union, aims to ensure that the law is observed in the process of interpretation and application of the Treaty provisions[4]. Within this aim, the jurisdiction of ECJ includes 'the power to quash certain acts of other institutions, jurisdiction to hear appeals against pecuniary sanctions and periodic penalty payments imposed under the Treaty, the power to order the Community make good any inquiry caused by wrongful act or omission on its part in the performance of its function and it had the right to give preliminary rulings on the validity of acts of institutions'[5]. Thus, ECJ occupies a sufficient place in the European institutional system; hence it is difficult to find a parallel in the international system, since the international courts mainly have a marginal role[6].

Having obligatory jurisdiction over member states, the ECJ's most important function is preliminary ruling, which, as Dehousse writes, has played an influential role in its 'extraordinary development'[7]. Basically, to avoid divergent interpretation of the provisions of Community law, the treaty authors enable ECJ to give an authoritative ruling on any aspect of European Community law, which in its turn provides uniform application[8]. ECJ has the right to give preliminary rulings concerning the interpretation of the Treaties, interpretation and validity of the acts of the European Union institutions and interpretation of the statute of bodies established by the Council of the European Union[9]. By exercising this function, ECJ gives legally binding judgments, which are

---

[4] Treaty establishing European Community, section 4, article 220 (32)
[5] Anthony Arnull, *The European Union and its Court of Justice*, Oxford University Press, Oxford, 1999, p.3
[6] Renaud Dehousse, *The European Court of Justice*, St. Martin's Press, New York, 1994, p. 5
[7] Ibid., p. 28
[8] Kieran St. Clair Bradley, "The European Court of Justice", in John Peterson and Michael Shackelton, *The Institutions of the European Union*, Oxford University Press, Oxford 2002, chapter 6, p.124
[9] Treaty establishing European Community, section 4, article 234.

obligatory not only on the referring courts, but also on all the courts of the member states faced with the same question[10]. Thus, it can be said that ECJ, by giving preliminary rulings, has widen the scope of Community law and opened sufficient room for its European integration agenda.

Within the framework of preliminary rulings, or as Craig and Burca write within the 'gap-filling' process, ECJ has furthered the Community Law by developing certain principles, to which both European Union institutions and member states are bound when they act within the Community sphere[11]. Among those principles are the **principles of direct effect and supremacy of Community law**. The main meaning of the former is that the provisions of the Treaties are directly binding upon member states or in other words produce legal effect at the national level. Analyzing the principle of direct effect, ECJ stated 'the Treaties are more than an agreement, which merely creates mutual obligations between member states...'[12]. The ECJ interpretation is that:

'...the Community constitutes a new legal order of international law for the benefits of which the states have limited their sovereign rights, albeit within limited fields, and the subjects of which comprise not only member states but also their nationals'[13].

In subsequent cases, ECJ went further; essentially deepening the principle of direct effect by introducing the principle of supremacy of Community law. These two principles of European Community are interconnected, because the provisions of Community law cannot have a direct effect if they do not have supremacy over national law. Interpreting the role of Treaties, ECJ stated that 'they constitute an integral part of the legal system of the member states, whereby they created:

'...a Community of unlimited duration having its own institutions, its own personality, its own legal capacity and capacity of representation on the international plane and more particularly, real powers stemming from a limitation of sovereignty or a transfer of powers from the States to the Community'[14].

The two principles, direct effect and supremacy of Community law are an evidence of ECJ's autonomous power, whereby it 'paid relatively little attention to the apparent intent of the contracting parties, *member states*, and more to what it viewed as the functional requirement of Community legal order'[15] (My italics). As Craig and de Burca write, ECJ basically examines and provides the interpretation of the whole context of particular provision, aiming to further what it considers that this provision sought to achieve in this context[16]. Having declared the Community law supreme over the national one, ECJ started implementation its European integration agenda.

One of the main ECJ's critics, Rasmussen, referring to the judicial activism

---

[10] Kieran St. Clair Bradley, "The European Court of Justice", in John Peterson and Michael Shackelton, *The Institutions of the European Union*, Oxford University Press, Oxford 2002, chapter 6, p.125

[11] Paul Craig and Grainne de Burca, *European Union Law*: Text, Cases, and Materials, 3rd edition, Oxford University Press, Oxford, 2003, p.97

[12] Case 26/62, *NV. Algemene Trasporten Expedite Onderneming van Gend en Loos vs. Nederlandse Administratie def Belastingen* [1963] ECR 1, 37

[13] Ibid., 38

[14] Case 6/64 *Flaminio Costa vs. E. N. E. L.* [1964] ECR 585, 593

[15] Renaud Dehousse, *The European Court of Justice*, St. Martin's Press, New York, 1994, p. 41

[16] Paul Craig and Grainne de Burca, *European Union Law: Text, Cases, and Materials*, 3rd edition, Oxford University Press, Oxford, 2003, p.98

of the Court, writes that 'ECJ engaged in a *dangerous social evil*, by *usurping power* by its political activism'[17] (My italics). Rasmussen mainly touches upon the idea that ECJ is able to find decision, 'despite textual indications to the contrary'[18] and believes that the Court has lost is popular legitimacy, because of 'high activism'. In contrary to Rasmussen, Cappelletti argues that ECJ being a constitutional court has to enforce 'high law' over temporary measures and is fully legitimate as it was embedded in the Treaty provisions[19]. For O'Neill, ECJ was as a type of administrative court like the French *Counseil d'Etat*, which then was developed into a constitutional court like in the USA, as a result of an expansive interpretation of its power[20]. Thus, he claims that this way the ECJ created 'a federal legal system not matched by federal development at political level'[21].

Legal Autonomy Approach

The above mentioned legal scholars are among those who mainly share legalism as a part of the legal autonomy approach. Legalism mainly includes the vast majority of legal scholars who specialize in the field of the European Community law. Regarding the study of ECJ's role in the European integration process, these scholars, deny the 'the existence of ideological and sociological influences on the Court's jurisdiction and have a positive appraisal of the Court's substantive contribution to European integration and of its judicial methods of treaty interpretation'[22]. In order to determine legalism, Martin Shapiro states the following: 'the Community is presented as a juristic idea; the written constitution as a sacred text; professional commentary as a legal truth; the case law as the inevitable working out of the correct implications of the constitutional text; and the constitutional court as the disembodied voice of right reason and constitutional teleology'[23]. The legalist scholars see ECJ as a driver mechanism of European integration and have a positive attitude toward the juridical methods of treaty interpretation[24]. Thus ECJ's role is 'to dutifully, intervene and temporary assume policymaking leadership to prevent the rapid erosion of the Community, when the member state face certain unexpected problems, which they 'unable or unwilling to stick to their treaty obligations'[25]. Relying on the article 4 of the Rome treaty, the legal scholars view ECJ as 'a great bono to European integration', where it acts relying on treaty based powers and realizes them to their greatest extend[26].

Neo neo-functionalists, being on this side of the debate, see ECJ as one of the primary actors in the European integration process. In this process, there are certain actors above and below the nation state. ECJ,

[17] Hjalte Rasmussen, *Law and Policy in the European Court of Justice*, Martinus Nijhoff, 1986, p.25
18 Ibid.
[19] Mauro Cappelletti, in Paul Craig and Grainne de Burca, European Union Law: Text, Cases, and Materials, 3rd edition, Oxford University Press, Oxford, 2003, p.99
[20] Aiden O'Neill, *Decisions of the European Court of Justice and their national Implications*, London: Butterworth, 1994
[21] Ibid.
[22] Anne-Marie Burley and Walter Mattli, “Europe before the Court: A Political Theory of Legal Integration”, International Organization 47, 1, Winter 1993, p. 45
[23] Martin Shapiro, “Comparative law and Comparative Politics”, Southern California Law Review 53, January 1980, p. 538.
[24] Anne-Marie Burley and Walter Mattli, “Europe before the Court: A Political Theory of Legal Integration”, International Organization 47, 1, Winter 1993, p. 45
[25] Federico Mancini, “The Making of a Constitution for Europe”, in Robert O. Keohane and Stanley Hoffman, *The New European Community: decision making and institutional change*, Westview Press, 1991, chapter 6, p. 179
[26] Anne-Marie Burley and Walter Mattli, “Europe before the Court: A Political Theory of Legal Integration”, International Organization 47, 1, Winter 1993, p. 46

as a supranational institution, is above the state and mainly promotes integration[27]. Being on the supranational level, 25 judges and 8 Advocate Generals of ECJ, which take 'an oath to decide cases independently to their home governments by two important facets of the Court's decision-making process: secrecy of deliberation and the absence of dissenting opinions'[28].

There are two important elements of the ECJ's autonomous decision making process, drawn by Ernst Haas:

> ... whereby political actors in several distinct national settings are persuaded to shift their loyalties, expectations and political activities towards a new and larger center, whose institutions possess or demand jurisdiction over the pre-existing national states[29].

Neo neo-functionalists draw a very different picture of legal integration and challenge the presumed congruence between the Court of Justice decisions and member states interests[30]. They assert that ECJ has significant autonomy 'by virtue of the separation of law and politics and the inherent legitimacy of courts as legal actors and that it can use this autonomy to rule against the interests of Member states'[31]. Moreover, the process of legal integration was brought about as the consequence of 'the strategic action of private litigants, lawyers, national courts and ECJ, as a result of which is expansion of legal integration and masking of a broader process of political integration'[32]. The main point here is that the legal decision that can acquire political influence is not the same as a political decision. 'As the law functions as a mask, this legal decision becomes nonpolitical and hides the promotion of a particular set of political objectives, against contending objectives, in the purely political sphere'[33]. Therefore, the Court of Justice, while seeking to advance its political agenda, 'must accept the constraints of legal reasoning, even when such constrains require it to reach a result that is far narrower that the one it might deem politically optimal'[34].

Within the notion of political spillover, within the process of gradually shifting expectations, changing loyalties and evolving values, neo neo-functionalists try to explain why member states have positive attitudes toward the Court's legal innovations. 'Law operates as law by shifting expectations and individuals are entitled to rely upon the assumptions that social, economic or political behavior will be conducted according to the law'[35]. The addressers of the Court's decision member states, national courts and individuals although 'they are hostile to the Court's decision, do not ask the Court to overturn its ruling but rather accept that ruling and use it as a legal base in subsequent cases'[36].

---

[27] Anne-Marie Burley and Walter Mattli, "Europe before the Court: A Political Theory of Legal Integration", International Organization 47, 1, Winter 1993, p. 54

[28] Ibid, p. 58, I added the present number of judges and advocate generals.

[29] Ernst Haas, *The Uniting Europe*, 1968.

[30] Walter Mattli and Anne-Marie Slaughter, "Revisiting the European Court of Justice", International Organization 52, 1, Winter 1998, p. 185

[31] Karen J. Alter, "Who are the "Masters of the Treaty?"?: European Governments and the European Court of Justice":, International organization 52, 1, Winter 1998, p 121

[32] Kenneth A. Armstrong, "Legal Integration: Theorizing the Legal Dimension of European Integration", Journal of Common Market Studies 36, 2, Blackwell Publishers Ltd. 1998

[33] Anne-Marie Burley and Walter Mattli, "Europe before the Court: A Political Theory of Legal Integration", International Organization 47, 1, Winter 1993, pp 44

[34] Ibid.

[35] Ibid.

[36] Hjalte Rasmussen, "On Law and Policy in the European Court of Justice", pp 275 - 281

Other theorists that share the legal autonomy approach are scholars of historical institutionalism, which incorporates key aspects of neo-functionalism. Thus, as Paul Pierson and Stephan Leibfried write, 'ECJ has taken an active, even forcing, stance, gradually building a remarkable base of authority and effectively 'constitutionalizing' the emerging European polity'[37]. In addition, based on three sources of gaps: 'member states preoccupation with short-term concerns, the prevalence of unanticipated consequences and instability of member states' policy preferences', Pierson explains the growing divergence between the preferences of member stats and the actual functioning of supranational institutions[38].

Political Power Approach

Followers of this approach, intergovermentalists, view ECJ as an 'agent of the EU member states [...] designed to interpret the EU treaty base and secondary legislation passed pursuant to the treaties in the arbitration of conflicts among EU institutions and among these institutions, member states and citizens'[39]. Moreover, ECJ is tasked to tackle the problems in the agreements between member states by avoiding 'the costly need for the actors to make exhaustive agreements', which might solve any dispute among them[40]. This in its turn does not imply that ECJ gets autonomous authority, because ECJ's decision making process is governed by principles that simply reflect the interests and preferences of the most powerful states, like France and Germany[41].

Regarding the interaction between ECJ and member states, the theorists of the political power approach point out three assumptions. The first one is that if ECJ mainly relies on the Treaty provisions, case precedents or legal norms that have great clarity, then there is likelihood that it will rule against a litigant member state[42]. The second assumption is that 'the the greater the domestic costs of an ECJ ruling to all litigant governments, the lesser the likelihood that the governments will abide by an adverse ECJ decision'[43]. The scholars' third assumption is that 'the greater the potential costs of a case, the larger the number of governments potentially affected by it, and the larger the number of adverse decisions ECJ makes in similar areas of the law, the greater the likelihood that the member states will respond collectively to restrain ECJ activism'[44]. Here, basically the member states can either press to pass a new secondary legislation or revise the Treaty provisions[45].

Thus, as intergovernmentalists claim, ECJ, relying on the support of the member states, serves their interests and preference by interpreting the Community law. In this process ECJ mainly faces a dilemma. First, in order to maintain its

[37] Paul Pierson and Stephan Leibfried, "Multi-Tiered Institutions and the Making of Social Policy: Between Fragmentation and Integration", Washington, D.C: Brookings Institutions, 1995

[38] Ibid.

[39] George Tsebelis and Geoffrey Garrett, "The institutional Foundation of Intergovernmentalism and Supranationalism in the European Union", International Organization 55, 2, Spring 2001, p. 358

[40] Walter Mattli and Anne-Marie Slaughter, "Revisiting the European Court of Justice", International Organization 52, 1, Winter 1998, p. 180 (Geoffrey Garret's interpretation of ECJ's role)

[41] Garrett, Geoffrey, "International Cooperation and Institutional Choice: The European Community's Internal Market", International Organization 46, 2, p. 534

[42] Geoffrey Garrett, R. Daniel Kelemen and Heiner Schulz, "The European Court of Justice, National Governments and Legal Integration in the European Union", International Organization 52, 1, Winter 1998. p. 150

[43] Ibid.

[44] Ibid.

[45] Ibid.

legitimacy, ECJ tries to adopt decisions that members states will accept. Second, in order to preserve the 'image' of independent arbiter, it tries to maintain 'legal constituency and to minimize the appearance of any political pressures from interested parties'[46]. As there is no significant divergence in preferences between ECJ and member states, ECJ basically implements wishes of member states[47]. Furthermore, the decision making process is influenced by the political and economic interests of the litigants, which makes it a legislative rather that a judicial chamber[48]. In addition, member states are interested in delegating some authority to ECJ, which will reduce 'cheating' among them. ECJ essentially 'monitors compliance with Community obligations, facilitates the logic of retaliation and reputation in iterated game and creates a shared belief system about cooperation and defection in the context of differential and conflicting sets of individual beliefs that would otherwise inhibit that decentralized emergence cooperation'[49].

Liberal intergovermentalists perceive the European integration process as 'gradual process of preference convergence between member states and the European institutions function to provide them with information and reduce transactions costs, without any t*ransfer of authority or loyalty* from states to a new supranational center'[50] (My italics). Moravcsik points out a two stage model in this process, whereby in the first 'national chiefs of government aggregate the interest of their domestic constituencies and in the second stage, 'national governments bring their preferences to the intergovernmental bargaining table in Brussels, where agreements reflect the relative power of each member states and where supranational organizations exert little or no causal influence'[51]. Acting under the influence of member state, as Weiler writes, ECJ simply fulfills the role of '*technical servant*'[52] (My italics).

Overview of the debate

The main debate between the scholars of the two approaches regards the interaction between ECJ and member states, precisely whether ECJ takes into account the nature of state interests. Neo neo-functionalists, representing the legal autonomy approach, argue that the 'European legal system is not in the interests of member governments and they have been unable to reorient the system in accordance with their preferences'[53]. In contrast, the scholars of political power approach state that member states, having interest in European legal system, comply with it, because it reflects rational interests of governments and furthers them[54]. Therefore 'if there are incentives for governments to

---

[46] Ibid., p.151

[47] Walter Mattli and Anne-Marie Slaughter, "Law and politics in the European Union: a reply to Garrett", International Organization 49, 1, Winter 1995, pp. 186

[48] Ibid.

[49] Geoffrey Garrett and Barry Weingast, "Ideas, Interests and Institutions: Constructing the European Community's internal Market", In Judith Goldstein, ed. *Ideas and Foreign Policy: Beliefs, Institutions, and Political Change*. Ithaca: Cornell University Press. p. 13

[50] Mark A. Pollack, "International Relations Theory and European Integration", Journal of Common Market Studies 39, 2, June 2001, pp 221 244.

[51] Ibid.

[52] Joseph Weiler, "Community, Member States and European Integration: Is the Law Relevant?", Journal of Common Market Studies 21, 1982, p. 45 - 50

[53] Walter Mattli and Anne-Marie Slaughter, "Law and politics in the European Union: a reply to Garrett", International organization 49, 1, Winter 1995, p. 184

[54] Geoffrey Garrett, "The Politics of Legal Integration in the European Union", International Organization 49, 1, Winter 1995, p. 175

argue against the Court's decision, this does not mean that governments want to ignore the Court's rulings, but rather, governments must weight the costs of accepting the court's decisions against benefits derived from having an effective legal system in the European Union'[55].

From this argument it can be inferred that member states will not abide or will not implement ECJ's decisions, if the domestic costs overweight the benefits of this decision. For intergovernmentalists 'the power of ECJ is not based on the letter of the Treaties, but rather depends critically on the continuing acquiescence of member states and is constrained by their actions'[56]. Therefore being under the "control" of member states, ECJ faithfully implements their wishes[57].

Neo neo-functionalists do not agree with this statement and argue that ECJ cannot implement member states' wishes, since the preference of the Member states and ECJ diverge in material respects[58]. As the former judge Pierre Pescatore writes, the judges of ECJ, in contrast to national governments, are more pro-integrationists and have 'une certaine idée de l'Europe'[59] a certain idea of Europe of their own. Scholars of neo neo-functionalism do not agree with above mentioned arguments, stating that 'this contravenes the basic precepts of the rule of law, which requires ECJ to apply a principle formulated in the context of one case to the other similarly related and it can not differentiate the actors solely on the basis of economic or other interests'[60]. To the argument of the scholars supporting the political power approach that there is no coherent legal base for ECJ's behavior and too many contradictions in the treaty, neo neo-functionalists answer that 'the law is in a sense clear, determinate body of rules that formed the basis for the Court's rulings and there is no contradiction, it is just a rule and exception'[61].

Conclusion

ECJ being a controversial European Union institution is differently treated by scholars of legal autonomy and political power approach. Both approaches try to develop a theoretical framework that will determine the role of ECJ in the European integration process, particularly its interactions with member states. Scholars from both approaches look at ECJ from different lenses: while the legal autonomy approach asserts the important role of ECJ in the European integration, referring to autonomous authority, the political power approach denies it altogether. For the legal autonomy approach, ECJ is a supranational institutions, which being independent of member states or in other words being above states, furthers its European integration agenda. Mainly the ECJ derives

[55] Ibid.

[56] Geoffrey Garrett, "The Politics of Legal Integration in the European Union", International Organization 49, 1, Winter 1995, pp 173

[57] Ibid

[58] Walter Mattli and Anne-Marie Slaughter, "Law and politics in the European Union: a reply to Garrett", International organization 49, 1, Winter 1995, pp 185

[59] Pierre Pescatore, "The doctrine of direct effect: An infant disease of Community law", European Law Review 8, June 1983, pp 155 - 175

[60] Walter Mattli and Anne-Marie Slaughter, "Law and politics in the European Union: a reply to Garrett", International organization 49, 1, Winter 1995, p. 185

[61] Ibid., The arguments of scholars concerns the Articles 30, which prohibits the quantitative restrictions on free movement of goods and article 36 which sets the list of justification to those restrictions.

its power from the provisions of the Treaties.

In contrast to these arguments, the scholars of the political power approach deny that ECJ possesses certain autonomous jurisdiction, independent of the member states. Moreover, they argue that ECJ was established to serve the interests of member states by tackling certain problems arisen from incomplete Treaty provision.

Taking into account the basic functions of ECJ and its judgments on various cases, it can be said that the assumption of the legal autonomy approach reflects the real role of ECJ in the integration process. Indeed, the ECJ's compulsory jurisdiction over member states, which basically introduced the main principles of European Community Law, has played a crucial role in advancing the integration process. Two principles, direct effect and supremacy of Community law is evidence of that. Relying on the Treaty provisions, ECJ itself determines the limits of the judicial power in the European Union. The only thing that member states can do is to comply with ECJ's autonomous jurisdiction.

Although the scholars of the political power approach present a clear theoretical framework, they lack to present sufficient empirical data to prove their assumptions. The scholars claim that if the costs of an ECJ's judgment are high or if it contradicts the interest of member states, they will avoid implementing this judgment by pursuing to pass new legislation or make a Treaty provision. In reality, this can not be realized, since there are a great number of cases that affect the interests of many member states. If in every case these member states claim to change the Treaties or to pass new legislation, then logically the IGC should be summoned each two or three months. Thus, member states shall only comply with supranational jurisdiction of ECJ, which further deepens the European integration process. 'Being an authoritative interpreter of the EC law and enforcing the law against the contracting parties, ECJ seeks to enhance the effectiveness of EC law in national legal orders, to expand the scope of supranational governance and to achieve the general purposes of the Treaties, which are the fundamental basis of the European Communities'[62].

[62] Alec Stone Sweet, *The judicial construction of Europe*, Oxford University Press, 2004, p.27

Bibliography

1. Alter, Karen J., *Who are the "Masters of the Treaty?" European Governments and the European Court of Justice*, International organization 52, 1, Winter 1998
2. Armstrong, Kenneth A., *Legal Integration: Theorizing the Legal Dimension of European Integration*, Journal of Common Market Studies 36, 2, Blackwell Publishers Ltd. 1998
3. Arnull, Anthony, *The European Union and its Court of Justice*, Oxford University Press, Oxford, 1999
4. Bradley, Kieran St. Clair, *The European Court of Justice*, in John Peterson and Michael Shackelton, The Institutions of the European Union, Oxford University Press, Oxford 2002
5. Burley, Anne-Marie and Walter Mattli, *Europe before the Court: A Political Theory of Legal Integration*, International Organization 47, 1, Winter 1993
6. Cappelletti, Mauro, in Paul Craig and Grainne de Burca, European Union Law: Text, Cases, and Materials, 3rd edition, Oxford University Press, Oxford, 2003
7. Case 26/62, NV. Algemene Trasporten Expedite Onderneming van Gend en Loos vs. Nederlandse Administratie def Belastingen [1963] ECR
8. Case 6/64 Flaminio Costa vs. E. N. E. L. [1964] ECR 585, 593
9. Craig, Paul and Grainne de Burca, European Union Law: Text, Cases, and Materials, 3rd edition, Oxford University Press, Oxford, 2003
10. Dehousse, Renaud, The European Court of Justice, St. Martin's Press, New York, 1994
11. Garrett, Geoffrey, *The Politics of Legal Integration in the European Union,* International Organization 49, 1, Winter 1995
12. Geoffrey Garrett, R. Daniel Kelemen and Heiner Schulz, *The European Court of Justice, National Governments and Legal Integration in the European Union*, International Organization 52, 1, Winter 1998.
13. Garrett, Geoffrey, *The Politics of Legal Integration in the European Union,* International Organization 49, 1, Winter 1995
14. Geoffrey, Garrett , *International Cooperation and Institutional Choice: The European Community's Internal Market*, International Organization 46
15. Haas, Ernst, *The Uniting Europe*, London: Stevens & Jones, 1968.
16. Mancini, Federico, *The Making of a Constitution for Europe*, in Robert O. Keohane and Stanley Hoffman, The New European Community: decision making and institutional change, Westview Press, 1991
17. Mattli, Walter and Anne-Marie Slaughter, Law and politics in the European Union: a reply to Garrett, International Organization 49, 1, Winter 1995
18. Mattli, Walter and Anne-Marie Slaughter, *Law and politics in the European Union: a reply to Garrett*, International organization 49, 1, Winter 1995
19. Mattli, Walter and Anne-Marie Slaughter, *Revisiting the European Court of Justice*, International Organization 52, 1, Winter 1998
20. O'Neill, Aiden, *Decisions of the European Court of Justice and their national Implications*, London: Butterworth, 1994

21. Pescatore, Pierre*, The doctrine of direct effect: An infant disease of Community law*, European Law Review 8, June 1983
22. Pierson, Paul and Stephan Leibfried, *Multi-Tiered Institutions and the Making of Social Policy: Between Fragmentation and Integration,* Washington, D.C: Brookings Institutions
23. Pollack, Mark A., *International Relations Theory and European Integration*, Journal of Common Market Studies 39, 2, June 2001
24. Rasmussen, Hjalte, *Law and Policy in the European Court of Justic*e, Martinus Nijhoff, 1986,
25. Shapiro, Martin, *Comparative law and Comparative Politics*, Southern California Law Review 53, January 1980
26. Stone Sweet, Alec, *The judicial construction of Europe*, Oxford University Press, 2004
27. Treaty establishing European Community
28. Tsebelis, George and Geoffrey Garrett, *The institutional Foundation of Intergovernmentalism and Supranationalism in the European Union*, International Organization 55, 2, spring 2001
29. Weiler, Joseph, *Community, Member States and European Integration: Is the Law Relevant?* Journal of Common Market Studies 21, 1982