

LA RÉCEPTION DU DROIT EUROPÉEN PAR LE DROIT FRANÇAIS: INTÉGRATION ET RESPECT DE LA SOUVERAINETÉ NATIONALE

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ABSTRACT: *France at the origins of the European construction. French law subjected to European law, but guaranteed of national sovereignty.*

I. Submission to European law: European “legal order”

1. “Legal order” of the European Order

“A community legal order integrated into the domestic legal order and distinct from the international order”

A. Time resistance: a Jacobin State Council

Manifestations of resistance: screen law, pre-legal matters, transposition of directives. A more respectful position of the Court of Cassation. Boosting the Constitutional Council

B. Integration by recognizing the specificity of Community law

The principle of integration constitutional (2004). Harmonization between the supreme courts. Preventing the conflict. Independence in interpretation

2. Integration of the European Convention on Human Rights

A. Safeguarding fundamental rights

Adapting French law and jurisprudence. Examples: phone-tapping; stakeout ...

B. Fair trial

French specificity put into debate: the famous trial of Government’s Commissioner before the administrative courts; advisory and contentious double function. Subtle arrangements.

II. Respect of national sovereignty

1. Statement of the Constitutional Council

A. Bloom of the constitutional review: first only a priori, the apparition of the a posteriori control with the priority issue of constitutionality.

B. A conventional constitutional and administrative law

Area of the judges’ power on the constitutional control and constitutional control: anything, except for the control of law’s constitutionality.

2. The superiority of the Constitution on the treaties

The importance of the Constitution and priority in examining the issue of constitutionality.

A. Constitutional rules and Community rules: translation

Migration of a rule to another. Sending from one jurisdiction to another of the pre-trial matters.

B. Constitutionality preventive control of treaties

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*The main issue of constitutionality: which is the way the priority should be managed?
Conclusion: The complexity in the service of harmony*

MOTS-CLÉS: *la réception du droit européen, transposition des directives européennes, intégration et respect de la souveraineté nationale*

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