

## The Supremacy of the European Constitution

*Hungdah Su*

### Abstract

As regards the debate on the European Constitution-Building processes, a key question is whether the European Constitution shall enjoy the supreme status in any domestic legal system of the Member States in the EU. The Convention and IGC between 2002 and 2004 seem to have established such a supreme status in the EU by installing Article I-6 of the Constitution, which is integrally based upon the principle of supremacy established by the European Court of Justice since its famous *Costa* judgment in 1964. Nonetheless, no work intends to survey the relevant jurisprudence of all Member States in the EU with the intention of offering a politico-legal explanation of the development and limits of the principle of supremacy. Therefore, this shall be the objective of this paper, along with a desire to respond to the questions posed at the beginning of this paper. A general survey of the relevant jurisprudence of ECJ will be presented first, followed by an evaluation of reaction from the jurisdictions of all Member States with the exception of those that most recently joined to the EU. The limits of this principle in the European Constitution, which distinguishes it from the constitution of any modern state, shall be analyzed accordingly. In conclusion, this article presents a political-legal explanation of the development and limits of the principle of supremacy in order to determine whether the European Constitution can be deemed a constitution.

**Key Words:** supremacy, constitutionalism, institutionalism, subsidiarity