

Case C-213/89 Factortame [1990]

Facts: The United Kingdom enacted an Act according to which vessels should be British-owned in order to be eligible to be registered and to enjoy British fishing quotas. Factortame and other companies, incorporated under the laws of the United Kingdom but with Spanish directors and shareholders, challenged its compatibility with Community law and applied for the grant of interim relief. The relevant Court made a reference under Article 177 of the EEC Treaty for a preliminary ruling and ordered that the relevant part of the Act should be suspended as regards the applicant. The Secretary of State for Transport appealed against the order granting interim relief, which was set aside by the House of Lords on the basis that the grant of such relief was precluded by the old common-law rule that an interim injunction may not be granted against the government, and an Act of Parliament is presumed to be in conformity with Community law until a decision on its compatibility has been given. In connection with these proceedings, the House of Lords referred for a preliminary ruling whether a national court must disapply a rule of national law when this is the sole obstacle which precludes it from granting interim relief in a case before it concerning community law.

Held: According to the principle of the precedence of Community law, the provisions of the Treaty and directly applicable measures of the institutions render automatically inapplicable any conflicting provision of national law by their entry into force. The full effectiveness of Community law would be impaired if a rule of national law could prevent a court from granting interim relief in order to ensure the full effectiveness of the judgment to be given on the existence of the rights claimed under Community law.