

The feasibility of defining the boundary between EU and national law

Anthony Speaight QC has published a paper on the feasibility of defining the boundary between EU and national law. It is co-authored by Stephen Hockman QC.

The paper argues that it would be both possible and desirable to implement ideas suggested by the Prime Minister when he launched his EU reform programme last year, but of which nothing has since been heard from the Government. It draws attention to the fact that Germany is by no means the only mainland country in which the senior court claims a prerogative to challenge acts of EU institutions in excess of jurisdiction. It also reveals that the EU Charter of Fundamental Rights has on recent occasions been applied by British courts unnecessarily, in the sense of doing so in circumstances where the Court of Justice of the EU is unlikely to have done so.

The authors conclude by providing a series of illustrative draft clauses which could provide a basis for a new parliamentary bill referred to as The Boundary of European and National Law Bill 2016.

A copy of the paper is available to view [here](#).