

The concept of the rule of law in EU law

Abstract

The rule of law is a philosophical concept in law defining the relationship between a man and the government. Different legal doctrines approach it in different ways, but in principle the issue of the rule of law in the European Union has become increasingly important in recent decades. The author discusses jurisprudential and theoretical foundations of the rule of law in Europe, then analyses the applicable EU law with a focus on the legal instruments for protection. Primary law refers to the concept of the rule of law already in Article 2 TEU as one of the values on which the Union is founded. Also, the rule of law is a condition for a candidate country to join the EU.

The core part of the thesis addresses the instruments for the protection of the rule of law in EU law. First, Article 7 TEU, so-called ‘rule of law procedure’ is a mechanism by which a declaration that a Member State is at risk of violating EU values, including the rule of law, or perhaps a decision that a serious breach of values has occurred and a sanction can be adopted.

The infringement procedure under Article 258 TFEU is often used to the rule of law protection. The Commission can initiate a procedure against a Member State that fails to comply with its obligations under EU law. In case of Poland, the Commission has initiated several proceedings for specific infringements based on the adoption of a Polish law being in conflict with EU rules.

Finally, the Commission’s efforts to introduce new approaches to rule of law protection, such as the *Rule of Law framework*, can be observed for some time. As soft law, it is based on dialogue with the Member State and non-binding recommendations. Conditionality Regulation, as a secondary source of EU law, which introduces a procedure for the suspension of EU budget funds to the states that violate the rule of law, can be considered as a new tool in EU law.

Keywords:

rule of law, Art. 7 TEU, infringement procedure, Rule of Law Conditionality