

The rule of law as a category of the European Union Treaty

An attempt at conceptual reconstruction

Summary

The aim of the dissertation is identified in its subtitle. The questions posed in the introduction are answered in subsequent chapters, creating a particular catalogue of research hypotheses aimed at the reconstruction referred to in the title. The content structure of the dissertation follows the requirements of the dogmatic-legal analysis supplemented with a comparative attempt.

The ontic status of the European rule of law is presented in Chapter I of the dissertation. The principle of the EU law is confronted here with the value in this law in order to attempt to categorize the notion provided in the title and ask about the meaning of the rule of law in the European Union. Although its values, specified in Art. 2 of the Treaty on European Union (TUE), are characterized by high abstractness and openness, they indisputably refer to the principles of law, which in the full dimension are available for court verification.

Assuming that the values (principles) under Art. 2 TUE are common to the Member States, the next chapter had to focus on the genesis of the European rule of law. The historical dimension is completed here with an overview of constitutional norms dealing with the rule of law in selected Members States. Doctrinal generalizations are associated in this chapter with the case law.

Chapter III of the dissertation presents the status of the European Union understood as the community of law. The notion of the community of law, despite the lack of even semantic explicitness, is understood for the purposes of this thesis rather in its structural dimension (community as the subject of law) than the functional one (community as consolidation of legal orders). This first approach provides the context for the European rule of law (a community ruled by law).

Opinio doctoris with regard to the title category makes the essential part of Chapter IV of the dissertation. The European "rule of law" has various doctrinal denotations: from identifying it only with the principle of legalism to treating principles of otherwise established normative content as components, elements of the "rule of law". Differentiation of those scopes does not always reflect the dichotomy of formal rule of law vs. substantive rule of law.

Acquis judiciaire is analysed in Chapter V of the thesis. Obviously, the case law presented here does not include all relevant rulings, but nevertheless, it points out to those that document the case law evolution of the European rule of law.

Procedures protecting the European rule of law are the subject of the final, sixth chapter of the dissertation. The rule of law can achieve actual ontic status by counteracting its violations. Activation of those procedures can additionally contribute to establishing semantic, normative and axiological capacity of the category referred to in the title of the dissertation.

The conclusion not only highlights the facts presented in subsequent chapters, but, first of all, synthesizes the idea presented in the subtitle of the thesis. The key finding is the thought that the rule of law cannot be qualified using the functor of value, since the law can protect freedom and equality (therefore the category of equality before the law), democracy and human rights, but undoubtedly, this protection does not have a self-referential dimension.