
MEANING AND INDEXING THE RULE OF LAW – ESSENTIAL EU ACQUIS

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Abstract: The transition to democracy, the rule of law and the market economy in the countries of Central and Eastern Europe, especially in the Western Balkans, presents problems that were not popularized legally in these countries. It is appropriate to mention first of all that in the first days of the transition, a big gap was imposed between the need to change the legal system and the need for legal certainty. Governments undertook reforms that called into question rights that the state could no longer guarantee or privileges that were incompatible with democratic values. On the other hand, the idea of democratic rule of law as one of the most significant acquis of the European idea assumed stable legislation that could not be changed arbitrarily. In essence, it would undergo certain changes, but in a way that is predictable and that allows the individual to plan and prepare future activities. What is the essence of the rule of law? In what way is this acquis respected in the EU? How and who measures the rule of law index? Is it possible to implement the necessary reforms and at the same time guarantee the legal security of the citizens?

Keywords: Rule of law, European acquis, European Commission, The Treaty on European Union, The Court of Justice of the European Union (CJEU), The World Justice Project (WJP)

1. INTRODUCTION: THE ORIGINES OF THE RULE OF LAW

Legal literature and political discourse have, over the past three decades, been gradually updated by references to the rule of law. Every project, every reform, modest or great, was accompanied by an assessment and a tendency to legitimize or condemn them in the light of what seems to have become the supreme ideal at the end of the 20th century - the establishment of the rule of law. Each era was dominated by a master, otherwise a term for those of sovereignty, public service and general interest. Without naming some of the great philosophers of law, those known to the jurists of ancient Greece and Rome, from Cicero through Jean Baudin to Hegel and Kant to modern European and American philosophers of law, have greatly contributed to shaping the legal order. and social consciousness. The rule of law today fulfills the same function and is constantly developing its influence. A slogan that was adopted by the European Union and set as a condition for membership in the Union. Of course, the term is old. It appears in German doctrine from the middle of the 19th century. But it had no impact in Europe. When for example in France Hauriou, Duguit or even Esmein used the expression, it was identified in terms of the principle of legality or, more broadly, to oppose the police state, which are understood as the rule of arbitrariness. (Luisin, B., 2016, 155p) It is therefore not surprising that the expression, resurrected, established itself in a few years far from the circle of lawyers and became the main concern of the creators of public opinion. As for political programs, which during authoritarianism and one-partyism did not contain commitments to strengthen the rule of law, that practice was interrupted by the fall of communism, the fall of the Berlin Wall and the approach to democratic liberalism. Today, the value of the expression is confirmed even by the highest state authorities. This is how the reasoning of the draft constitutional law of 1990 begins, tending to establish the control of the constitutionality of exceptional laws with this sentence: "There is no free people and no national sovereignty without the rule of law." Dedicating themselves to numerous commitments for "Rule of law in everyday life", numerous newly created political parties, associated members of expert legal and philosophical-political groups have committed to the implementation of the rule of law. They showed the attention and desire for specific moves, especially by the state authorities, institutions and constitutional-legal texts. It seems that never before has such a goal been so shared, a joining of all forces with an overwhelming drive for social cohesion. Repeatedly invoked, the rule of law is nevertheless rarely defined in such a way that it succeeds in achieving unanimity merely by relying on appearance or confusion of meaning when the term is not merely used as a label to form an opinion. Today, the interest in measuring or indexing the degree of the rule of law is also growing. (Genicot, N.,2020,211-234,p.)However, its meaning is known. It encompasses three very different dimensions that sometimes make a system of hierarchical norms prevail, sometimes limiting the power of the state or even the content of the Law. If we try to identify the meaning and scope of the multiple texts and declarations that tend to ensure the advancement of the rule of law, then we will see that it is not just about submitting the state, a specific legal entity, to the law. The rule of law, in this sense, is achieved when its authorities are subject to mechanisms of judicial control - essentially falling under the administrative judge and the constitutional judge. In that direction, the establishment of a review of the constitutionality of laws transforms the legal state into a state of law. This restrictive concept persists mainly in certain studies of constitutional law, although the rule of law is often synonymous with democracy, which is not necessarily the case. The other

dimensions of the concept are also completely absorbed by the vision of the rule of law that manifests its demands in relation to all social relations: "A society experiences the rule of law when the relations between its members are organized according to rules that define the rights of each of the them and provide guarantees necessary to respect these rights[". Undoubtedly, it is this definition that best reflects the current content of the concept, except that it is enriched by the dimension - guaranteeing respect for rights - generally absent from the concerns of those who seek to deepen and expand the rule of law. So conceived, is the rule of law achievable? Is it desirable? At the risk of appearing iconoclastic, we do not think so, since such a rule of law is based on an idealized vision of the legal order that we could, moreover, very well accommodate if it could not have the devastating effects of ultimately destroy many functions of the Law. (Guaino,H.,2022)

2. FUNCTIONS OF THE PRINCIPLE OF PROTECTION OF ACQUIRED RIGHTS

The principle of protection of acquired rights or more precisely the respect and rule of law fulfills several functions in the legal system. Its primary function is to provide a guarantee for the individual against arbitrary action by the power and to establish a criterion for correct change of the legal system in countries that have not yet reached a certain level in the development and respect of this acqui. The control of the constitutionality and the limitations of the acquired rights have a great political significance regarding the question of the functions of the principle of protection of the acquired rights in the legal system. The researched principle is one of the criteria for evaluating the possibility of improving the legal system. In order to justify the protection of acquired rights, the authors refer to the principles that provide security to citizens. Every new law, every new legal intervention must allow citizens to make plans for the future. Namely, the citizens must be guaranteed that the regulations will not be changed, the validity of which would surprise the citizens. "The certainty of the law means less the stability of the law than the possibility of predicting the actions of public authorities." Brooks sensibly emphasizes that one cannot conclude that the stability of law and its immutability are guarantors of the rule of law. On the contrary, everyone must consider the possibility of introducing changes in the legal system in order to reach the true values of the rule of law. (Brooks E., 2022,) By adopting the standards, the rule of law imposes on both the state and the citizens to faithfully fulfill their legal obligations. At the same time, the change in the content of their obligations should take place gradually. In this way, law ceases to be a one-sided projection of power to grow into a kind of agreement between the government and citizens. This results in an additional argument to highlight the issue of the fiction of law as an expression of the general will in a democratic state. Given these considerations, the very term "vested right" raises doubts. It seems that in the case of fundamental rights taken in abstracto, in the sense presented above, it is impossible to speak of acquired rights. If we accept a non-positivist conception of law, we must also admit that the individual cannot acquire fundamental rights. By accepting the positivist conception, it must be recognized that fundamental rights derive from the Constitution. An individual acquires a right by a constitutive transaction and not by an act of the legislature or a regulatory power. The term "vested right" could cover all designated specific rights defined by a materializing act. The fundamental right is essential for its realization or acquired rights in abstracto which are not constitutionally guaranteed. This term, by suggesting that it is an act of power that is the basis of a subjective right, seems to be underpinned by a positivist conception of law.

The idea of protecting the acquired rights seems a contradiction because on the other hand the justification for this protection is based on the rejection of the conception of the right, an act of unlimited will of the state. Respect for the constitutionality by the holder of the normative authority at first glance seems that the acquired rights of the individual should not be touched. The Constitution suggests respecting and expanding the acquired rights and not restricting them. This leads to the assumption that state intervention aimed at limiting or removing acquired rights is in violation of the Constitution. When the Constitutional Court notices that a law intervenes in the area of acquired rights in a way that is unfavorable for the individual, (unless it is proven that the conditions are not met to impose or limit the application of the principle of protection of acquired rights) it will declare the law to be inconsistent with the Constitution. It belongs to the legislator, who introduces regulations affecting the field of acquired rights, to prove that its interference is justified. There, the presumption of conformity of laws with the Constitution is accepted in the laws of several European countries, therefore it encounters a presumption oriented in the opposite direction, which limits its scope. Guarantees for the individual whose rights should be restricted only on an exceptional basis are thereby strengthened. The guaranty function for the individual of the principle under study is still less than one might think a priori, given the imprecise content and the strong axiological load that refers to the system of values accepted by society that cannot be defined unambiguously. That is why the Constitutional Judge has considerable room for maneuver. In that case, the additional warranty has its own price. Jurisprudence constructs the constitutional, situation which is specific.(Tuleja, P./Krzysztof,W.1995, 737p.,)

3. NATIONAL SOVEREIGNTY OF THE EUROPEAN CONCEPT OF THE RULE OF LAW

The unbridled expansion of the European concept of the rule of law Europe, the rule of law, national sovereignty: these concepts, which we would have liked to be friends and which must be defined (A), have been clashing for about thirty years. The European concept of the rule of law is indefinitely expandable (B) and the Court of Justice of the European Union plays a key role in this expansion (C). A/ Definitions The concept of sovereignty has been too often debased. However, it is not hermetic: to be sovereign is to be subject to no one other than oneself. It is necessary, wrote Jean Bodin at the end of the 16th century, that “those who are sovereign, are in no way subject to the commands of others”. Sovereignty has two aspects in a democratic regime: national and popular, external and internal. By national sovereignty, we mean that a State is not subject to any other in the concert of nations and can only be linked to other States of its own free will, by an agreement that it is free to denounce at any time. By popular sovereignty, we mean that the conduct of the nation is conferred on the people, who have the power to appoint and dismiss their leaders, to make laws and repeal them, through procedures based on universal suffrage. Conversely, European construction, as it has been done, is underpinned by a federalist philosophy that places the Member States under supervision and attributes eminent power to bodies that do not proceed from elections (Commission, Court of Justice, comitology). The underlying idea is that we must go beyond nations, these barbaric relics, to reach a high level of civilization. (Schoettl, J.-E.(2022, 15,-37,p.).Growth, social progress, humanism and stock market euphoria are promised to us with European integration; Refusing European integration would mean populist regression and war: this is how the political and economic elites sold the European treaties to their fellow citizens, as illustrated by the Maastricht Bloopers published under the aegis of Jean-Pierre Chevènement in 1997(Chevènement,J-P.,1997). These sales arguments did not convince the people. They were reluctant to approve the Maastricht Treaty (French referendum of 1992) and hostile to the ratification of the Treaty establishing a Constitution for Europe (French and Dutch referendums of 2005) as well as to that of the Lisbon Treaty (Irish referendum of 2008). (Dorange, A., 2021)It is this imperious supranational and metademocratic philosophy, much more than the desire for rapprochement between European peoples, much more than the will for cooperation between member countries, and above all much more than the love of our common civilizational heritage, which is the credo of the European institutions. It permeates the discourse of many of our leaders. It shines through in the daily functioning of the Union's bodies. It is the common thread of "European construction", through the shimmering of texts, the interweaving of skills, the interweaving of objectives and the flowering of principles.(Ibid. Schoett,J.- É., 2022,) How has this credo been translated into the practice of the Union's bodies, as well as into the case law of European and national judges? Since the subject is very broad, it is approached here from a particular but critical angle: the extensive use made of the concept of the rule of law by the Union's bodies. A question that has as a corollary that of the way in which the national judge ratifies the attacks on sovereignty resulting from this use. The invocation of the rule of law now plays, in Brussels, Luxembourg and Strasbourg, a strategic role both in delegitimising sovereign functions (at both national and European levels) and in legitimising the attacks on national sovereignty by the European institutions. The rule of law, precisely, how can it be defined? It has become a portmanteau word, a polymorphic concept that has a meaning that is sometimes technical, sometimes ideological, even transcendental. In this last sense, it becomes a religion of which individual rights are the gods and the judge the great officiant. This conception reaches its climax in European forums. What is being concocted, in circles such as the Venice Commission, is a law “without the people and against the State”, as Pierre-Henri Tavoillot (Tavoillot,P.-H.,2022) In the French legal tradition, the expression "rule of law" refers not to a specific programmatic, philosophical or moral content, but to a state architecture whose three components are as follows: the Kelsenian idea of a hierarchy of norms (taken up by Carré de Malberg); sovereignty, in its dual national meaning (there is no political power except in the Nation) and popular meaning (political power comes from universal suffrage); finally, the existence of three specialized powers (legislative, executive and jurisdictional) interacting to moderate each other, but also to cooperate and without any one being able to put the others under its control. The German notion of Rechtsstaat refers to the protection of individual rights against the State. And the Anglo-Saxon notion of Rule of law implies the equality of private and public persons before the judge. It is therefore clear that when the Union refers to the rule of law, we are much closer to the Anglo-Saxon and German visions than to the French legal tradition. State intervention is not primarily perceived in France as a threat to freedoms, but as a condition for exercising them. For Montesquieu, freedom was already defined as "the peace of mind of the citizen that comes from his opinion that the government not only does not subjugate him, but ensures that he cannot fear from another citizen", which Paul Valéry sums up as follows: "If the State is strong, it crushes us. If it is weak, we perish". We are far from the liberal-libertarian vulgate that has taken hold in European circles as well as in French circles, with the presupposition that there are, at the top of the hierarchy of standards, only individual rights. Let us digress here: European elites, like national elites, have a very different conception of the expression "rule of law" from that of ordinary people. The former attach major importance to individual rights and the figure of the judge. The latter prioritize safety and universal suffrage. For the vast majority of our fellow citizens, the rule of law ("state" with a lower case) lies not in

the decline of the police state, but in its capacity to enforce the law and effectively protect citizens against predators and troublemakers. However, the uncompromising defense of individual rights in the face of public power, based on a meticulous control of proportionality, leads to curbing the means of prevention and repression of the community. The doxa applauds in the name of safeguarding the "rule of law". Public opinion, however, no longer feels protected. The elites are pleased to see the Leviathan locked in its cage. Ordinary people are rather worried about not seeing him patrolling the City anymore. This is (among others) a major misunderstanding between the elites and ordinary mortals. This misunderstanding is at its height in European circles. B/ The European concept of the rule of law is indefinitely extensible Mentioned, but not defined, in the treaties, the concept of the rule of law allows the bodies of the Union, activated by activist groups, to draw up an unwritten "second treaty". This second treaty is in line with the views of a highly organised political correctness, which has been using the European lever for thirty years to promote its agenda. The liberal-libertarian credo underlying this agenda includes disparate but closely linked elements: primacy of subjective rights, individual feelings and the private sphere over collective demands, abolition of borders, repudiation of the Nation, hostility towards sovereign functions, substitution of citizen initiatives for universal suffrage and of the judge for the legislator, radical environmentalism, exaltation of minorities (sexual, ethnic, linguistic or religious). The European Commission zealously relays this activism. Thus, for the past ten years, it has been multiplying initiatives in the area of corporate social responsibility. In addition to the imperatives of environmental protection, equality between women and men and the fight against discrimination, moral precepts of universal scope are increasingly being added. C/ The Court of Justice of the European Union (CJEU) plays a key role in this process.

4. CJEU: THE CASE OF PUNISHMENT OF POLAND AND HUNGARY

In 2021, the CJEU ordered Poland to pay a penalty payment of one million euros per day until it put an end to the anti-corruption activities of the disciplinary chamber of its Supreme Court. For its part, the European Parliament voted on a resolution aimed at sanctioning the violations of European "values" committed, according to it, by Poland and Hungary. At the very end of 2021, the Commission initiated infringement proceedings against Warsaw, considering that the case-law of its Constitutional Court "violated the principles of autonomy, primacy, effectiveness and uniform application of Union law, as well as the binding judgments of the Court of Justice of the Union" and that, moreover, the Polish Constitutional Court "no longer meets the requirements of an independent and impartial tribunal established by law". On 16 February 2022, the CJEU rejected the appeal by Poland and Hungary against the sanction mechanism set up in 2020, and wanted by the majority of MEPs, which empowers the Commission to suspend aid to member countries that do not respect the "values of the Union". In other words, the EU is asking Polish and Hungarian public officials to abandon the implementation of the policies for which they were elected (and, for Hungary, re-elected). In particular, it is asking Poland, threatened on its border with Belarus and in the midst of the Ukrainian crisis, to remodel its judicial organisation and to put the case law of its constitutional court under wraps. A great success for solidarity and harmony between the peoples of Europe! And a great step forward for the rule of law, which we had thought we understood implied respect for the decisions of the constitutional judge! II – The European concept of the rule of law versus the law of the State The concept of the rule of law has become the Trojan horse of all those in the European institutions who want to undermine the law of the State (A). Under the cover of the European rule of law, the European Union seizes the competence of its competences (B). A/ The concept of the rule of law has become the Trojan horse of all those in the European institutions who want to undermine the law of the State The functioning of the Union is based on disembodied principles (pure and perfect competition, budgetary irreproachability, abolition of borders, etc.) rather than on civilizational solidarity, on abstract aims rather than on the pragmatic convergence of national interests. (Schoettl, J.-E.2022, 15,-37,p.) Its mechanisms act in an increasingly legalistic manner, increasingly disconnected from the aspirations of the people, increasingly sensitive to the action of economic or activist lobbies, increasingly forgetful of the fundamental principle, enshrined in Article 4 of the TEU, according to which the Union "respects the national identity of the Member States inherent in their fundamental political and constitutional structures". Article 2 of the TEU certainly places the "rule of law" in the "values" of the Union: "The Union is founded on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights of persons belonging to minorities. These values are common to the Member States in a society characterised by pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men".B/ The intrusion of the bodies of the European Union into the Polish judicial organization is doubly significant: with regard to the rules governing the articulation between national law and European law, as well as from the point of view of equity between member states. The peoples of Europe have not consented to the applicability of an act of the Union (including a judgment of the CJEU) claiming to control or sanction a Member State outside the area of competence of the Union, as circumscribed by the Treaties. In order to go beyond the attributions entrusted to it by the Treaties,

the EU cannot rely on the principle of primacy of European law (ECJ, 15 July 1964, *Costa v. Enel*), because this principle cannot benefit a European act taken outside the scope of the Union's competences. However far the primacy of EU law goes, it cannot abolish the fact that the European institutions only have a competence of attribution, delimited by the treaties. They do not have the "competence of their competences", the prerogative of national sovereignties. For the EU, seizing the competence of its competences would be to ignore the fundamental democratic principle according to which the people are the seat of all sovereignty. However, as the *Verfassungsgericht* says, if there is a European civilisation, there is no European people. There is, one might hope, a European ethos (a way of being in the world), but there is no European demos (a feeling of belonging to a common nation). In this respect, the Polish rebellion is reminiscent of the position expressed on several occasions by the French high courts, even if the revolt with which they threatened the EU in filigree has not yet materialized. In theory, it is up to the CJEU to prevent the Union from going beyond the scope of its competences. But how can the CJEU be the sole guardian of this dividing line when the crossing of this line results from its own case law? We then see only the Member States (and, in particular, their national supreme courts) to whistle the fault.... Let us take the judicial organization, a bone of contention between Poland and the organs of the Union. The Treaty on European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) do not breathe a word about the internal judicial organization of the Member States. It is only clear from the TEU (Art. 2) that the "rule of law" (to which one will agree to implicitly attach the independence of the judiciary) is a "value" of the Union. However, as stated above, Article 2 of the TEU lists these "values" in the most vague way, to the point that the French Constitutional Council, on two occasions (Treaty establishing a Constitution for Europe and the Treaty of Lisbon), considered this list to be purely declaratory: a sort of statement of the democratic achievements of the Member State upon its accession. If the "rules and principles" (including the principle of the primacy of Union law) are binding on all in the areas governed by Union law, the verification of compliance with "values" not circumscribed by the treaties should be done with tact and restraint, in order to accommodate national cultures, histories and sensitivities. In any event, Article 2 of the TEU, which is declaratory in nature, cannot establish the Union's own competence. It cannot empower the Union's bodies to deal with everything in the name of the rule of law, a rule of law – what is more – whose contours they would define at their convenience. (Sauvé, J.-M., 2024) III – The European concept of the rule of law versus sovereign functions In matters of security, police and defence, the abuses of power committed by the bodies of the Union are increasing, and always in the direction of a restriction of sovereign functions (A). However, the French supreme courts have so far refused to call out the fault (B). In the sovereign domain, the action of the bodies of the Union does not only affect national sovereignties: it also compromises the Union's vocation to protect its peoples in a cooperative framework (C). A/ In matters of security, police and defence, the abuses of power committed by the bodies of the European Union are increasing, and always in the direction of a restriction of sovereign functions. In matters of security, police and defence, the Union's bodies should refrain from any excess of power (*ultra vires*) since the Treaties (i.e. sovereign peoples) clearly state that "National security remains the sole responsibility of each Member State" (Article 4, paragraph 2, of the TEU). This does not prevent the CJEU from ruling on the matter. Thus, in 2021, the CJEU ruled that the 2003 Working Time Directive applies to members of the armed forces. From the Union's point of view, a soldier should therefore be regarded, with some exceptions, as an ordinary worker, which contravenes the French requirement for permanent availability of its soldiers, already undermined by the ECHR's 2014 *Mately* decision, requiring France to introduce trade unionism into its armies. An area no less crucial for our collective security: the retention and use of traffic and location data from electronic communications, for the purposes of combating terrorism and organised crime or counter-espionage. In this area, the CJEU ruling of 8 April 2014 "Digital Rights", followed by the *Quadrature du Net* and Privacy International rulings of 6 October 2020, then *Spacenet AG* of 20 September 2022, impose restrictive conditions that are incapacitating for the security of States: according to the CJEU, only a serious and present threat to national security allows national legislation to provide for generalised and indiscriminate retention of such data. B/ However, the French supreme courts have so far refused to call out the fault. Thus, in the case of the retention and use of electronic communications data for criminal or intelligence purposes, the Council of State has forbidden itself in advance from opposing the CJEU in matters of security with a veto similar to that issued by the Karlsruhe Court in monetary matters. It is even an unconditional capitulation that proceeds its French Data Network judgment of April 21, 2021: "Contrary to what the Prime Minister maintains, it is not up to the administrative judge to ensure compliance, by the secondary law of the European Union or by the Court of Justice itself, with the distribution of competences between the European Union and the Member States". Similarly, with regard to the "working time" directive, the Council of State ruled on 17 December 2021 that the constitutional principle of "necessary free disposal of the armed forces" did not generally prevent the application of this directive to French soldiers (Assembly, 17 December 2021). It is worth "zooming in" on this emblematic case. Referred to by a Slovenian border guard regarding the calculation of overtime, the CJEU ruled in his favor and rejected, on 15 July 2021, the conclusions of France, Spain and Slovenia,

according to which, under the European treaties, the status of military personnel falls entirely outside the scope of the 2003 directive on the organisation of working time. For the CJEU, the 2003 directive is applicable, with some exceptions, to military personnel. What exceptions? Those related to battlefield operations, operational training, special unit missions or "insurmountable constraints". Conversely, services related to "administration, maintenance, repair, health", or "maintaining order" and "prosecution of offences" would be subject to the provisions of the directive. Support services for the armed forces and the gendarmerie are therefore strongly impacted. Born from the complaints of a Slovenian border guard, the demand that soldiers benefit from the 2003 directive could not have affected France as it is so foreign to the conception that our soldiers have of their commitment. But every corps includes its atypical personalities. A French gendarmerie non-commissioned officer asked his superiors to cap the weekly working hours at the maximum set by the 2003 directive. Dissatisfied with the response given to him by the director of the national gendarmerie (according to which, assuming the directive were applicable, the gendarmerie already complies with those of its provisions invoked by the person concerned), our gendarme referred it to the Council of State. In their observations in defense, the ministers of defense and the interior asked the Council of State to declare the 2003 directive totally inapplicable to members of the armed forces. Two arguments were a priori possible to support this request. The first consisted of inviting the Council of State to rule that, by extending the applicability of a European act of secondary law (the 2003 directive) beyond the area of competence of the Union (as delimited in particular by Article 4 of the TEU), the CJEU had disregarded the rule according to which the Union does not have "the competence of its competences", this remaining the prerogative of sovereign peoples.

6. THE EUROPEAN NOTION OF THE RULE OF LAW AGAINST POWER

European notion of the rule of law against power The repugnance for power is inscribed in the Brussels mentality (A). The distrust of the functions of sovereignty is also the fact of the European Court of Human Rights in Strasbourg (B). The European institutions curb national sovereignties without having the capacity, or even the intention, to exercise, at the European level, a sovereign will (C). A/ The repugnance for Europe as a power is inscribed in the Brussels mentality. While all eyes were fixed at the end of December 2021 on the classification of nuclear power in the famous "green taxonomy" and while in France there was already congratulations on a concession from Germany, the green label was only delivered to nuclear power at the beginning of February at the last minute, due to multiple resistances (hostility from the group of experts set up by the Commission, threatening press release from the German coalition, etc.). Not content with having tried to exclude nuclear power from the taxonomy, the Commission, pushed by its "scientific service" (the Joint Research Centre), seriously considered, on the eve of the Ukrainian crisis, to classify the defence industry alongside that of tobacco, gambling and pornography, among the private activities of the European ecolabel with all the financial, economic and security consequences that this entails... On this issue, the neo-progressives of Brussels will have been as seriously mistaken as those of Paris and Berlin. Deceived not by error of judgment, but because they were blinded by ideology. The current backpedaling must not make us forget this. And how can we not also mention the fantastic risk - in terms of feasibility, security of supply, industrial employment, purchasing power and city-countryside balance - taken by the European Parliament in June 2022 by banning the sale of new thermal vehicles from 2035? Here again, basic considerations of social protection and industrial sovereignty have been sacrificed to an ecological voluntarism blinded by ideology. For ideological reasons again, the Union has continued, in recent years, to hinder the sovereign initiatives of the Member States instead of catalysing their energies.

7. CONCLUSION

The rule of law is one of the most important acqis of the European Union, and of the European idea in general from ancient times to the present day. Numerous leaders, emperors tried to be just so that the rule of law would reign among their subjects. The dictatorships of the 20th century and even today in the 21st century authoritarian regimes did not respect the rule of law. After the fall of Berlin in 1989 and the ambitions of the post-communist states in transition to join the EU, the reforms towards the development of the market economy were followed in parallel with the reforms in the domain of justice. A large number of the countries of Central and Southeastern Europe have gained membership in the European Union, for many years they have been trying to revive the rule of law and in doing so they have managed to implement difficult reforms. However, even today, not only among these countries, but also among the older members of the EU, certain weaknesses in the deviation of the rule of law are manifested. The EU strives through The Legal Security Index, or how to promote continental law through an indicator, to monitor and overcome these weaknesses. In this direction, the role of The World Justice Project (WJP) is significant, with the help of which the indexing of respect for the rule of law is achieved. Also, the Court of Human Rights of the EU is the institution that can correct soft judgments of national courts. When it comes to respect for the rule of law in the countries of the Western Balkans, especially the countries with European aspirations such as

Albania, North Macedonia, Serbia, Montenegro, Bosnia and Herzegovina or Kosovo, the criticisms of the European Council experts are reasoned and open. The problems with corruption, the problem of the independence of the judiciary, the politicization of the judiciary, long administrative procedures, the system of redistribution of redemptions, obsolescence of court cases and in general the insufficient implementation of the rule of law are the most common criticisms and obstacles for the approximation of these countries to the EU.

REFERENCES

- Brooks, E. (2022). Qu'est-ce que l'état de droit : définition, histoire, exemples, importance, rapports mai 26, 2022 <https://www.liberties.eu/fr/stories/rule-of-law/44270>
- Chevènement, J.P. (1997). Le bêtisier de Maastricht ISBN 10: 2869593481 / ISBN 13: 9782869593480 Published by Arléa, 1997
- De Meyer, K. (2024). Etat de droit : Bruxelles clôt la procédure lancée en 2017 contre la Pologne le 6 mai 2024 <https://www.lesechos.fr/monde/europe/etat-de-droit-bruxelles-clot-la-procedure-lancee-en-2017-contre-la-pologne-2093374>
- Dorange, A. (2021). État de droit : la Commission européenne distribue les bons points (et les mauvais) *Rédaction du Village de la Justice*, 02.08.2021 <https://www.village-justice.com/articles/etat-droit-commission-europeenne-distribue-les-bons-points-les-mauvais,39825.html>
- Genicot, N. (2020). L'Index de la sécurité juridique, ou comment promouvoir le droit continental par le biais d'un indicateur *Droit et société* 2020/1 N° 104
- Guaino, H. (2022). Le *Figaro* du 20 septembre 2022
- Guaino, H. (2021). dans le *Figaro* du 27 octobre 2021)
- Luisin, B. (2016). Le mythe de l'État de droit », « L'État de droit, rétrospectivement... » <https://shs.cairn.info/revue-civitas-europa-2016-2-page-155?lang=fr>
- Sauvé, J.-M. (2024). L'État de droit aujourd'hui, RDLF 2024 chron. n°62, <https://revuedlf.com/droit-fondamentaux/etat-de-droit-aujourd'hui/>
- Schoett, J.-É. (2022). La notion européenne d'Etat de droit et les souverainetés nationales -<https://fondation-res-publica.org/2022/11/30/la-notion-europeenne-detat-de-droit-et-les-souverainetes-nationales/>
- Schoettl, J.-E. (2022). La démocratie au péril des prétoires-De l'Etat de droit au Gouvernemnet des juges 2022, *Le Debat*, Gallimard, <https://droit.cairn.info/la-democratie-au-peril-des-pretoires--9782072984266-page-15?lang=fr&tab=premieres-lignes>
- Solomon, J.-M. (2010). "What is Civil Justice". Faculty Publications. 1149.<https://scholarship.law.wm.edu/facpubs/1149>
- Tuleja, P., & Krzystof, W. (1995). La protection des droits acquis élément constitutif de l'État de droit? Remarques sur la jurisprudence constitutionnelle polonaise. In: *Revue internationale de droit comparé*. Vol. 47 N°3, Juillet-septembre 1995. pp. 737-762; doi : <https://doi.org/10.3406/ridc.1995.5124>https://www.persee.fr/doc/ridc_0035-3337_1995_num_47_3_5124, Fichier pdf généré le 09/04/2018
- Tavoillot, P.-H. (2022). *Le Figaro* on September 19, 2022.