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## **THE RELATIONSHIP BETWEEN THE RULE OF LAW AND THE RULE OF THE LAW IN THE CONTEXT OF EUROPEAN INTEGRATION**

Every constitution of a developed legal state prescribed that on the territory of this state functions the rule of law and it works in practice. Also, the rule of law can be prescribed in the constitutions of states which develop. Most likely the rule of law doesn't function in practice in those countries. Because those countries don't have resources and opportunities for implementation and maintenance of it. By now, Ukraine is in the category of states which develop.

In 1996 when the constitution of Ukraine was accepted, article 8 pointed out that the rule of law functions in Ukraine [1]. In 2004, the Constitutional Court of Ukraine officially defined the rule of law as the supremacy of law in society [2]. The rule of law is an indispensable condition for the realization of the requirements of democracy, freedom, justice, and equality of all before the law [3]. So, the rule of law is the supremacy of law in society, and its determining role in relations between subjects of public life, activities of governmental and non-governmental organizations, communities, and associations [3]. Though how the rule of law actually works in Ukraine, the rating of an international independent organization – World Justice Project, shows. The index (The Rule of Law Index) evaluates the principle of the rule of law. As of 2022, Ukraine took 76 place, overtaking Russia, 107 place [4].

With all similarities and interrelations, the rule of law cannot be substituted or equated with the rule of the law, because it is a gross theoretical mistake. After all, the law must be formed on a legal basis. If the law is not based on legal principles, consequently, a country that does not adhere to international values, cannot call itself a legal one [5, 6]. This principle, unlike in some European countries, is not approved in the constitution of Ukraine.

As Krasnyuk I.A. notes, the principles of the rule of the law are clearer than the rule of law. We highlight the following elements of the rule of the law:

- the supremacy of the constitution, because it is the most important law in the state.
- setting the highest legal force, and priority of laws in the whole system of sources of law.
- a special procedure for the adoption and amendment of the law – this procedure should be provided for in the core law.
- the existence of mechanisms of implementation and protection of the law

– constitutional supervision over adhering of laws, which ensures compatibility with the legislative system.

It is with the help of the rule of the law the hierarchical system of sources of law is formed [7]. Thus, the rule of the law is derived from the rule of law and manifests itself as a legal part. *Id Est*, the normative-legal act is sanctioned in the established order and does not contradict the rights and freedoms of society [6].

Throughout its history, Ukraine has been a multi-vector state in the political sphere. Immediately after the pro-European president who had been driving Ukraine to international values, freedoms, and rights, his place was taken by the pro-russian one, who improved relationships with russia and made Ukraine more dependent on it. This led to the fact that pro-russian politicians delayed the process of European integration, which also consist of the adaptation to European legislation.

The goal of Ukraine's European integration is to bring the country as close as possible to European standards in the political, economic, legal, and social aspects. In order to achieve this goal, many reforms are being implemented, which ensure that the rule of law and the rule of the law can function in practice. One of these reforms was Law No. 7662 on "improving the procedure for the selection of candidates for the post of judge of the Constitutional Court". It refers to the mechanism of the Advisory Group of Experts, which is obliged to check candidates for the post of judges of the Constitutional Court for integrity [8].

But even in this reform, there are negative things that cannot guarantee the rule of law and the rule of the law. The amendments that made the Advisory Group of Experts effective were canceled by the Verkhovna Rada. The law provides that the distribution of votes of political experts, from the international community will be 3:3. We can conclude that political experts in the Advisory Group of Experts will have an opportunity to block candidates who are not loyal to the government [8].

In the process of European integration, the rule of law and the law are one of the aspects that must be launched to become a full-fledged European state with all international values. To create conditions for functioning the rule of law and the law, we have to create a civil society. Only people who are highly educated, and have moral values will create the required basis for it. Only with their help, Ukraine can reach the status of legal and democratic state. Ukraine has already launched all processes for it. The rule of the law isn't possible without the maintenance of the rule of law.

#### *Literature*

1. Конституція України. URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>

2. Рішення Конституційного Суду України у справі за конституційним поданням Верховного Суду України щодо відповідності Конституції України (конституційності) положень статті 69 Кримінального кодексу України (справа про призначення судом більш м'якого покарання). URL: <https://zakon.rada.gov.ua/laws/show/v015p710-04#Text>

3. Енциклопедія сучасної України. Верховенство права та верховенство закону. URL: [https://esu.com.ua/search\\_articles.php?id=33681](https://esu.com.ua/search_articles.php?id=33681)

4. World Justice Project. URL: <https://worldjusticeproject.org/rule-of-law-index/global/2022/Ukraine/>

5. Марія Братасюк, Оксана Росоляк. Співвідношення принципу верховенства права та принципу законності. URL: [https://ccu.gov.ua/sites/default/files/bratasyuk\\_m.\\_spivvidnoshennya\\_pryncypu\\_verhovenstva\\_prava\\_ta\\_pryncypu\\_zakonnosti.pdf](https://ccu.gov.ua/sites/default/files/bratasyuk_m._spivvidnoshennya_pryncypu_verhovenstva_prava_ta_pryncypu_zakonnosti.pdf)

6. Куракін О.М., Романов М.Ю. Співвідношення верховенства права та закону в розрізі соціологічної концепції право розуміння. URL: <https://t.ly/CLHр>

7. Красюк І.А. Верховенство закону – категорія сучасної юриспруденції. URL: <http://dspace.onua.edu.ua/bitstream/handle/11300/6921/%D0%9A%D1%80%D0%B0%D1%81%D1%8E%D0%BA.pdf>

8. Європейська Правда. Рада ухвалила «європейський» закон про відбір суддів КС у редакції, яку критикували експерти. URL: <https://www.euointegration.com.ua/news/2022/12/13/7152429/>

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