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The Origin and Evolution of the Principle of a Democratic State of Law on the Grounds of the Constitution of the Republic of Poland

Keywords: rule of law, the principle of a democratic legal state, fundamental constitutional value
Słowa kluczowe: praworządność, zasada demokratycznego państwa prawnego, fundamentalna wartość konstytucyjna

Abstract
The principle of a state of law belongs to the basic canons of contemporary democracy and remains the fundamental constitutional value and principle of all the democratic states. Its scope and interpretation usually are derived from the national constitutional order and results primarily from the basic law. In the Constitution of the Republic of Poland of 1997, being currently in force, it adopted the formula of the principle of a democratic legal state, combining the elements of a state of law, the rule of law and the democratic method of exercising power. Its contemporary understanding is derived from the output of the European constitutional law doctrine, the systemic experience of states with mature, established and solidified traditions of democracy, as well as from the judicature of the Constitutional Tribunal. This paper aims at conducting analysis of the content and scope of the principle of a democratic legal state provided by the Polish basic law.
Streszczenie
Geneza i ewolucja zasady demokratycznego państwa prawnego na gruncie Konstytucji Rzeczypospolitej Polskiej

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Zasada państwa prawnego należy do podstawowych kanonów współczesnej demokracji i pozostaje fundamentalną wartością konstytucyjną oraz zasadą wszystkich państw demokratycznych. Jej zakres i interpretacja zwykle wywodzą się z krajowego porządku konstytucyjnego i wynikają przede wszystkim z ustawy zasadniczej. W obowiązującej obecnie Konstytucji Rzeczypospolitej Polskiej z 1997 r. przyjęła ona formułę zasady demokratycznego państwa prawnego, łącząc w sobie elementy państwa prawnego, praworządności i demokratycznej metody sprawowania władzy. Jego współczesne rozumienie wywodzi się z dorobku europejskiej doktryny prawa konstytucyjnego, doświadczeń ustrojowych państw o dojrzałych, ugruntowanych i utrwalonych tradycjach demokracji, a także z orzecznictwa Trybunału Konstytucyjnego. Niniejsze opracowanie ma na celu przeprowadzenie analizy treści i zakresu zasady demokratycznego państwa prawnego przewidzianej w polskiej ustawie zasadniczej.

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I. Introduction

The principle of a state of law[2] is considered as belonging to the basic canons of contemporary democracy and without a shadow of a doubt remains the fundamental constitutional value and systemic principle of democratic states. Its scope and interpretation are derived from the national constitutional order and results primarily from the basic law. It has not become different on the basis of the current Constitution of the Republic of Poland of 1997, in which it finally adopted the shape of the principle of a democratic state of law (a democratic state ruled by law). However, there are other factors which influence its shape and comprehension. In this respect, the achievements of the doctrine of constitutional law, both native and foreign (regional on the European continent and world-wide) play a significant part. The jurisprudence of the Constitutional Tribunal, which subjects the content and interpretation of this principle to a constant process of evolution, being also largely the result of the practice of its application, cannot be overestimated in the field of its interpretation. In the context of protecting this value, its guarantees, including

[2] Also known as the principle of the "rule of law", alternatively the "state of law", the "state of justice", the "state of rights" or a "state based on justice and integrity".

both domestic and international ones, are of great importance. For, in case of decrease in the efficiency of internal mechanisms, control mechanisms ought to be particularly essential in order to ensure that this principle is respected and observed in the supranational and international space by individual states of the region integrated with each other in various areas. After all, the rule of law is one of the most important values and principles in the constitutional systems of democratic states, especially on the European continent.

This paper analyzes of the content and scope of the principle of a democratic state of law in the lights of the Constitution of the Republic of Poland of 1997, currently being in force. The main subject of the research is focused on the analysis of the genesis of this principle in the legal doctrine, its further development in the modern history and confronting it with its comprehension and interpretation adopted and evolving in the domestic constitutional law doctrine and practice.

II. The Origin and Evolution of the Principle of a State of Law

The genesis of the principle of a state of law (the rule of law) could still be sought in antiquity. In the modern sense, however, it was developed by political writers of the period of Absolutism and Enlightenment, especially by the representatives of 18th and 19th century philosophical thought in England, France and Germany[3].

[3] The provenance of the concept of a legal state in the doctrine of constitutional law is not as unambiguous as it seems at first glance, and it has apparently slightly different sources. Some authors date it from antiquity and associate it with the then popular idea of the rule of law. Its later development was largely contributed by political writers of the Absolute and Enlightenment periods against the background of the evolution of philosophical thoughts and the systems of the then states. The evolution of this concept is due to the achievements of the English, French, and above all German philosophical thought of the eighteenth and nineteenth centuries, which lay the foundations of the modern understanding of this principle, despite the differences that undoubtedly exist in their varieties, derived from the German concept of the *Rechtsstaat* and the English concept of the rule of law. It should be emphasized that before the idea of the rule of law was implemented in positive law and became one of the basic constitutional principles (mainly in the second half of the 20th century, although in this respect there is no unanimity in the literature on the subject, as some authors refer here to the first constitutions written at the end of the 18th century), the basis for it was developed by the doctrine and, next

In its essence and original assumptions, this principle primarily aimed at limiting state power, but not less important for state authorities and institutions was, and still is today, to act exclusively on the basis and within the limits of law, while citizens would have been allowed to do all which is not prohibited by legal norms. From the very beginning, the concept of the rule of law assumed that the law, created by the state in a democratic way, with the constitution at the forefront, occupying a supreme and binding position for those in power, determines their scope of competence and provides citizens with a specific catalog of rights and freedoms, together with the guarantees of their observance. Over time, an important element ensuring the effectiveness of compliance with the law was the establishment of diverse control institutions and forms of responsibility of the persons exercising power and holding the highest state functions. By law-making, the state of law was to define its organization, boundaries and forms of its activity as accurately as possible, as well as the scope and methods of interference in the sphere of individual freedoms, which is of paramount importance.

It is worth noting that the concepts formed on the basis of German doctrine –*Rechtsstaat* and the English "rule of law" were understood and evolved somewhat different.

On the German grounds in the first half of 19th century this term was understood as opposite to a despotic state and was associated with the ideals of

to the concept of the separation of powers, it is one of the most valuable achievements of the constitutional law and the science on political systems. Many representatives of contemporary doctrine of the constitutional law, history, theory and philosophy of law write competently about the genesis and the essence of the concept of the rule of law. It is impossible to list here all valuable works devoted to the research on this problematics and it is not the purpose of this study, hence I limit myself to referring to only a few literature items in this field, e.g. A. Pułło, *Zasady ustroju politycznego państwa*, Gdańsk 2014, p. 94 et seq., also compare with 2nd edition of 2017, *passim*; P. Uziębło, *Państwo prawa*, [in:] *Leksykon współczesnej teorii i filozofii prawa*, ed. J. Zajadło, Warsaw 2007, pp. 221–228, also compare with 2nd edition of 2017, *passim*; J. Zakrzewska, *Państwo prawa a nowa konstytucja*, [in:] *Prawo w zmieniającym się społeczeństwie*, ed. G. Skąpska, Toruń 2000, pp. 325–334; A. Zoll, *Demokratyczne państwo prawne*, "Civitas" 1997, No. 1; A. Dziadzio, *Koncepcja państwa prawa w XIX w. Idea i rzeczywistość*, "Czasopismo Prawno-Historyczne" 2005, No. 1, pp. 177–201; *Państwo prawa. Demokratyczne państwo prawne. Antologia*, ed. J. Kowalski, Warsaw 2008, *passim*; *Demokratyczne państwo prawne (aksjologia, struktura, funkcje): studia i szkice*, ed. H. Rot, Wrocław 1994, *passim*; I. Lipowicz, *O mądre prawo i wrażliwe państwo*, Warsaw 2013, *passim*, and many others.

the Enlightenment era, such as equality before the law, inviolability of property, freedom of speech, conscience and religion. An individual was to be protected against arbitrary actions first and foremost by the existence of a democratically legitimized parliament. In the second half of the 19th century, this understanding of the legal state (rule of law) gave way to formal comprehension inspired by legal positivism. The importance of institutional safeguards, such as the existence of independent courts or administrative judiciary, began to be emphasized in the state system. Other postulates were also important, for example the hierarchy of the legal system, the supremacy of the law, non-retroactivity and legal certainty. Therefore, the doctrine's attention was transferred from the democratic valuesof the state system to the formal values of the system of law and the system of its application[4].

Thus, the concept of the legal state in its original understanding seems to have consisted of a number of principles. The most important of them included: the principle of constitutionalism, according to which the constitution was to determine the organization and functioning of the state and the procedure of creating law, and which position in the legal system was to prevail over laws; the principle of the separation of powers, which was supposed to suppress the natural desire for the phenomenon of power to be abused by those exercising it and to safeguard individuals' freedom; the principle of independence and autonomy of the judiciary; the principle of recognizing a statute as the primary source of law; the principle of subordinating of administration to law. In 19th and especially in 20th century, when this concept and its basic principles, as well as the superiority of the norms of basic laws were recorded in written constitutions, and the further development of institutions for their protection took place, at the same time the emergence and evolution of other, previously unknown forms of control of law observance were noticed.

At the beginning of 20th century, along with the onset of the parliamentarism crisis, there was expressed a view that legislative power must also be subject to restrictions and control in the legal state[5]. As a result, the idea of constitutional justice was born. Formed by Georg Jellink and developed by

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[4] A. Pułło, op.cit., p. 94. Compare: M. Zmierczak, *Kształtowanie się koncepcji państwa prawnego,* [in:] *Polskie dyskusje o państwie prawa,* ed. S. Wronkowska, Warsaw 1995, p. 11 et seq.

[5] A. Pułło, op.cit, p. 94.

Hans Kelsen at the turn of the centuries, the idea of protecting the constitution and controlling the constitutionality of law, performed by a separate and independent judicial body established especially for this purpose, was implemented by the latter in the content of the Austrian Constitution of 1920[6]. In addition, various mechanisms and forms of legal liability of the highest officers in the state were created and consolidated, giving them the character of legal institutions. Effective formal and legal guarantees, as well as the guarantees of civil rights and freedoms were also sought.

The further fate of this rule happened under the influence of the events which took place in the period of Nazism and fascism in Europe. Particularly after the dramatic experiences of World War II, great importance started to be attached to democratic elements and contents, linking them directly with the protection of human rights. In addition, it is impossible to disagree with the opinion that such postulates as striving for the common good, ensuring fair procedures or efficiency in the actions of the state have also gained significance. Even then, the concept of the legal state was becoming close not only to the concept of a democratic state, but also to a just state. Obviously then, the conviction that the constitution should also contain postulates setting out the content of legislation was spread. Human rights became the reference point an indispensable basis for the construction of the rule of law. Respecting human rights, dignity and autonomy became a necessary condition for recognizing the state as a legal one ruled by law. Not only was the concept of the rule of law constitutionalized, but also internationalized[7].

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[6] Hans Kelsen assumed that a hierarchical system of legal norms can function properly only if they are not contradictory to each other. According to his conception, the Parliament as the main legislator cannot alone be a guarantor of its constitutionality, hence he argued that it could be solely a non-parliamentary body. He also stated that ordinary courts could not perform this part properly due to discrepancies in case-law. Hence, control of the constitutionality of law ought to be entrusted to one authority of a central character, i.e. the constitutional court. For more information see: H. Kelsen, *Istota i rozwój sądownictwa konstytucyjnego*, Warsaw 2009, p. 38 et seq.; D. Rousseau, *Sądownictwo konstytucyjne w Europie*, Warsaw 1999, p. 20. Compare in original: G. Jellinek, *Ein Verfassungsgerichtshof für Österreich*, Wien 1885, *passim*; H. Kelsen, *Vom Wesen und Wert der Demokratie*, Tübingen 1920, 2nd extended edition 1929, reprint: Aalen 1981; also *The Essence and Value of Democracy. Hans Kelsen*, eds. N. Urbinati, C.I. Accetti, Lanham–Plymouth 2013, *passim*.

[7] A. Pułło, op.cit., pp. 94–95.

Slightly differently the rule of law evolved in the Anglo-Saxon world. The principle of equality before the law was exposed there and emphasized first of all in the possibility of appealing of any decision of persons discharging important state functions to the court. Therefore, it was not only about equalizing all citizens before the law, but also private individuals and state officials, and moreover, about convincing citizens about the perfection and stability of law in the state. Confronting these two concepts, both of which have undoubtedly contributed to the modern understanding of the rule of law in Europe, it is worth agreeing that the concept grew on the basis of German doctrine perceived formal, axiological and democratic content as equally important. The latter, however, seem to be of lesser importance in the case of a concept based on the Anglo-Saxon version[8].

III. The Comprehension of the Principle of a State of Law on the Grounds of the Constitution of the Republic of Poland of 1997

The contemporary understanding of the principle of a state of law in the Polish legal order is largely based on the achievements of the European doctrine in this respect, because it is a relatively new principle for the Polish constitutional reality, which was anchored in the Polish basic laws only after the political system transformation of the late 1980s. Under the Constitution of the Republic of Poland of 2 April 1997[9], currently in force, this concept took the form of the fundamental constitutional principle of a democratic state of law (a democratic state ruled by law), which also embodies the principle of social justice[10].

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[8] Ibidem, pp. 95–96. A. Pułło thoroughly analyzes this issue and these two concepts, i.e. *Rechtsstaat* and the rule of law, from a comparative perspective with an indication of their differences.

[9] Dz.U. No. 78, item 483 as amended.

[10] Art. 2 of the Constitution. The principle of social justice, which – although connected in the literal wording of this constitutional provision with the principle of a democratic legal state, but in fact constituting a separate principle and an additional aspect of considerations arising from it – raises the most interpretation doubts and is not the subject of discussion within this study. A. Pieniążek, *Zasada demokratycznego państwa prawnego,* [in:] *Prawo konstytucyjne,* ed. B. Szmulik, Warsaw 2016, p. 71; M. Grzybowski, *Zasada demokratycznego państwa prawa,*

One of the dilemmas which emerges on the basis of understanding the principle of a legal state based on the text of the Polish basic law is how close it is, equal or identical with the notion of the state ruled by law and a democratic state. For the concept of the state ruled by law is not as completely new to the Polish constitutional order as the principle of a state of law or of a democratic state, which appeared in the Polish constitutional law only after 1989, and started to be solidified on the basis of the provisions of the constitution currently in force.

Unfortunately, here the opinions found in the doctrine of native constitutional law also remain ambiguous and heterogeneous, since some representatives of science identify the notion of a legal state with the state ruled by law, while others consider it a synonym of a democratic state and treat the principle of a democratic state of law as superior to all other fundamental constitutional principles based on the grounds of the Polish basic law.

In fact, the matter is not facilitated by the problem of understanding the rule of law itself from a formal and material perspective. Here, the formal rule of law is an obligation to comply with the law regardless of its content, provided that it meets certain formal requirements. Among them there are: a hierarchy of normative acts, at the top of which the constitution is situated, an act (statute) has a special place in the system of the sources of law, administrative legal acts are issued on the basis of the delegation given by the act, there are procedures for examining the legality of administrative acts, there is an obligation to publish legal acts. Here, however, no greater importance is attached to equity or justice of law. A material element, however, seems to be necessary to supplement the content of this concept, because without it, it would be insufficient and incomplete. It is important here to observe the law with a specific content, not just law in general – and that in a state ruled by law everyone is equal before the law which guarantees fundamental human and civil rights – is fair and expresses the views prevailing in the society[11].

In the domestic constitutional doctrine, attempts have been made many times to define the principle of a state of law and a democratic state of law.

[in:] *Prawo konstytucyjne*, ed. M. Grzybowski, Białystok 2009, p. 75; L. Garlicki, *Polskie prawo konstytucyjne. Zarys wykładu*, Warsaw 1998, p. 62 – compare with the newest 6th edition, Warsaw 2019.

[11] More broadly and detailed see: A. Pułło, op.cit., p. 99 et seq.

They are sometimes seen as a material understanding of the rule of law, which is additionally defined by such attributes as: democratic, social, implementing the principle of social justice, etc.

In the subject literature it is rather commonly accepted that the element which somehow distinguishes the essence of the principle of a state of law from the concept of a democratic state of law is enabling the real influence of the society (citizens) on making the most important decisions in the state, in particular on the content of the created law, including the catalogue of rights and freedoms of people and citizens, as well as their adaptation to the international standards and subjecting their observance to the control of the supranational and international bodies, which seems to be of fundamental importance.

Therefore, among the elements or principles which make up and in the most synthetic way characterize the essence of the concept of a democratic state ruled by law under the current Polish basic law, it is impossible not to mention the following: the principle of the separation of powers; the existence of a closed and orderly legal system (of the sources of law); the supremacy of the constitution over the other normative acts and the primacy of the acts of law over lower-order acts in the system of legal sources; the existence of a catalog of basic human and civil rights and freedoms developed in the basic law, created in compliance with the international standards together with an appropriate set of their institutional and legal guarantees; state interference in the sphere of freedom and property of an individual solely on the basis of an act of law and to an extent necessary to maintain democratic standards and not threatening their excessive, disproportionate and unjustified limitation; the existence of mechanisms to control the constitutionality of law and the legality of normative acts; the principle of sovereignty; ensuring public participation in state decision-making, including lawmaking and justice; election procedures based on the principles of democratic freedom, secrecy and universality; protection of rightfully acquired rights; judicial control over the activities of public authorities, including in particular executive bodies; liability of the state for damages[12], which is an institutional guarantee of the

[12] Interesting considerations about the state's liability for damages can be found in: D. Dudek, *Konstytucja a odpowiedzialność,* [in:] *Dziesięć lat Konstytucji Rzeczypospolitej Polskiej,* eds. E. Gdulewicz, H. Zięba-Załucka, Rzeszów 2007, p. 48.

rule of law, as well as the civil liability of its officials and criminal liability of the highest state officials; respecting the principles of the so-called internal morality of law and the resulting from it rules of good legislation, which include its transparency, consistency, completeness, the prohibition of retroactivity, clear principles determining the rules of validity and uniform application, the appropriate period between the publication and the entry into force of a normative act (*vacatio legis*), prohibition of undue interference (the principle of proportionality); the principle of the autonomy of courts and independence of judges[13].

IV. Means and Legal Instruments of Protection of Observance of the Principle of a State of Law

From the elements which make up the concept of the principle of a democratic state ruled by law, there can quite clearly be seen and emerged legal means, mechanisms and instruments being at the same time guarantees and forms of monitoring compliance with the principle of a democratic legal state, since they are in full symbiosis with it. The most vivid and effective ones include the entire independent judicial power[14], which task is to exercise justice in every aspect (also, and perhaps above all, in protecting the freedoms and rights of individuals against the violation by public authorities). It covers both the system of common and administrative courts (with the Supreme Court and the Supreme Administrative Court at the forefront), as well as special courts carrying out tasks in the field of constitutional protection and control of the constitutionality of law, and protection of the rights of individuals (the Constitutional Tribunal), as well as deciding on the cases in the field of constitutional responsibility of the highest state officials (the Tribunal of State)[15]. Contem-

[13] Deeper research on the subject shows that some authors define the division into formal and material premises. Compare A. Pułło, op.cit., p. 99 et seq.; A. Pieniążek, op.cit., pp. 70–71; M. Grzybowski, op.cit., pp. 74–75; L. Garlicki, op.cit., p. 58 et seq.

[14] A valuable study devoted to the issues of judicial power is the monograph: *Trzecia władza. Sądy i Trybunały*, ed. A. Szmyt, Gdańsk 2008, *passim*, being a result of 50th National Congress of Chairs and Departments of Constitutional Law held in Gdynia on 24–26 April 2008.

[15] Compare: D. Dudek, op.cit., p. 46.

porary non-judicial authorities and procedures in the form of the activities of various types of ombudsmen (Ombudsman for Civil Rights, Ombudsman for Children's Rights, etc.) play an important part in the field of institutional and legal forms of control, whose task is to ensure observance of the freedoms and rights of individuals guaranteed by the Constitution, acts of international and European law and statutes.

The judicature of the Constitutional Tribunal ought to be highlighted here, which treats the clause of a democratic legal state as a collective expression of a number of principles and rules of a more detailed nature, which are not clearly and literally defined in the text of the constitution, but can nevertheless be interpreted directly from it. In this way, the Tribunal largely supplements the text of the current basic law in terms of understanding the principle of a democratic legal state, filling its gaps so that all the content dictated by the standards of a modern democratic state can be derived from it and thus giving it a more complete and slightly different scope[16].

Also noteworthy is the fact that a characteristic feature of a modern democratic state of law is not only the creation of effective legal instruments (rules, procedures, etc.) and institutional and legal guarantees in the internal legal order and the system of state authorities, but also enabling citizens to take

[16] Compare: L. Garlicki, op.cit., pp. 59–60. For more on various aspects of the activities of the Constitutional Tribunal see: L. Bosek, M. Wild, *Kontrola konstytucyjności prawa*, Warsaw 2014, *passim*; A. Kustra, *Kontrola konstytucyjności całej ustawy*, "Przegląd Sejmowy" 2012, No. 2; B. Banaszak, *Porównawcze prawo konstytucyjne współczesnych państw demokratycznych*, 3rd edition, Warsaw 2012, p. 444 et seq.; W. Mojski, *Kilka uwag o przedmiocie i funkcjach kontroli konstytucyjności prawa w Polsce*, "Przegląd Prawa Konstytucyjnego" 2010, No. 2–3, p. 281 et seq. Among the latest works it is worth reaching out to: B. Ziemianin, *Pozycja prawna Trybunału Konstytucyjnego*, [in:] *Wokół wybranych problemów konstytucjonalizmu*, eds. J. Ciapała, P. Mijal, Warsaw 2017, pp. 357–363; W. Płowiec, *Przepis prawny i norma prawna jako przedmiot kontroli Trybunału Konstytucyjnego*, "Państwo i Prawo" 2017, No. 1, pp. 36–53; R.M. Małajny, *Trybunał Konstytucyjny jako strażnik Konstytucji*, "Państwo i Prawo" 2016, No. 10, pp. 5–22; *idem*, *Legitymacja sądownictwa konstytucyjnego*, "Państwo i Prawo" 2015, No. 10, pp. 5–21; L. Garlicki, *Niekonstytucyjność: formy, skutki, procedury*, "Państwo i Prawo" 2016, No. 9, pp. 3–20. Equally important for the examined matter are: B. Szmulik, *Sądownictwo konstytucyjne – ochrona konstytucyjności prawa w Polsce*, Lublin 2001, *passim*; Z. Czeszejko-Sochacki, *Sądownictwo konstytucyjne. (Tradycja a współczesność)*, "Państwo i Prawo" 2001, No. 6; *Trybunał Konstytucyjny*, ed. J. Trzciński, Wrocław 1987, *passim*; *Zagadnienia sądownictwa konstytucyjnego. O istocie państwa w 90 rocznicę ustanowienia Konstytucji marcowej*, No. 1, Warsaw 2014, *passim*.

advantage of confronting the decisions of these bodies with the level of supranational and international standards, and subjecting them to control and possible appealing them in front of the relevant supranational and international institutions and bodies.

The most effective mechanisms for such control include the possibility of submitting an individual complaint to the Court of Human Rights of the Council of Europe. Undoubtedly, the institutions of the European Union (the Court of Justice, Ombudsman, but also the system of rights guaranteed by primary EU law, as well as instruments and procedures for their protection resulting from secondary law) could be considered equally important in the scope of protection of individual freedoms and rights. The EU actions may prove to be more effective because – unlike individual cases dealt with by the ECtHR – they may constitute an interference of the supranational structure in the internal functioning of an EU Member State in the context of the rule of law and compliance with the principle of a legal state. After all, since the entry into force of the Lisbon Treaty, this principle has been officially and legally recognized as a supranational value applicable in the EU space.

Undoubtedly, the dilemma remains on what basis, on what legal grounds and premises and to what extent the EU is entitled to interfere in this sphere of the state's functioning. For, on the one hand, this is still the area of its internal sovereignty, while on the other, by joining the supranational structure, Member States voluntarily agree to delegate a certain extent of their sovereignty to the EU, and, or perhaps above all, commit themselves to making every effort to maintain an appropriate level of observance and enforcement of the values, principles and rights set out jointly for all the states and provided by the Treaties. Therefore, if in individual states there appears a problem of reducing the effectiveness of internal mechanisms and lowing the degree of observance of the rule of law, then perhaps external interference would be necessary in order to allow the maintenance at least the hitherto achieved level in the name of the common good, which is the EU and its values.

However, the problem is that, first of all, contrary to appearances, it is still very difficult to unambiguously identify where the clear boundary between the scope of the EU powers and the sovereign and non-transferable competences of its Member States lies. Secondly, estimating the degree of compliance with the rule of law, or stating its decreasing level, is a matter of discre-

tionary assessment of its premises and, unfortunately, is not free of political considerations, so there is a danger that it may be arbitrary.

V. Conclusions

The contemporary understanding of the rule of law under the Polish Constitution does not raise many doubts. It is derived from the achievements of the European doctrine of constitutional law and the systemic experience of states with mature, established and solidified traditions of democracy. In the current constitution, it adopted the shape of the principle of a democratic legal state, thus combining elements of a legal state, the rule of law and democratic style of exercising power, well known in the doctrine. However, this is not a phenomenon which does not develop. During over two decades of the constitution's validity, based on the activities of the Constitutional Tribunal, the scope and interpretation of this principle have acquired more and more new features which do not necessarily *expressis verbis* result from its formulation in the basic law. This principle is somehow a set of elements which are included in its interpretation based on the most important international and supranational standards in this field. Internal control mechanisms are of considerable importance for its compliance, but equally important, if not more important, is the possibility of confronting the level of respect for the rule of law in international and supranational space in the light of its valid standards.

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