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REINTERPRETATION OF “UNEQUIVOCAL” RELEVANT PROVISIONS – A VIOLATION OF THE PRINCIPLE OF LEGAL CERTAINTY

Summary: *This paper examines the principle of legal certainty, considering, in accordance with prevailing legal theory, its conceptualization as: an integral component of the broader notion of the rule of law; its relationship with quality of legislation; and its manifestation within the context of the right to a fair trial—the latter constituting the central point of the paper.*

When legal certainty is considered as an element of the rule of law, it is typically reflected through the principles of legal predictability, the prohibition of retroactive legal effect, and the doctrine of res judicata. These dimensions are marked by the recognition that a rigid demarcation between individual legal categories proves to be both demanding and often conceptually unsound.

Beyond its relevance in the context of the European Convention on Human Rights (ECHR), as protected under the Council of Europe framework, the principle of legal certainty also features prominently within the legal instruments of the European Union and the guarantees they provide. In the context of the ECHR, legal certainty is not only associated with Article 6(1)—the right to a fair hearing in civil proceedings—but also intersects with the protection of other Convention rights, particularly the derogable rights enshrined in Articles 8 - 11.

In conclusion, the research in this paper confirmed the thesis that legal certainty permeates all protected aspects of the right to a fair trial and the very essence of that right. Nevertheless, it is important to bear in mind that a stricter separation of these categories is very ungrateful.

Keywords: *right to a fair trial, legal certainty*