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THE PRINCIPLE OF LEGAL CERTAINTY IN LEGAL THEORY AND PRACTICE OF THE EUROPEAN COURT OF HUMAN RIGHTS

Abstract: *In this paper, the authors analyse the concept and content of the principle of legal certainty in legal theory, as well as the application of this principle in the European Court of Human Rights case law. The theoretical part of the research particularly examines the fundamental elements of the principle of legal certainty, such as accessibility and foreseeability, stability of the legal order, prohibition of retroactivity, protection of legitimate expectations, consistency of judicial practice and the principle of res judicata. The second part of the paper explores the practical application of the principle of legal certainty in the European Court of Human Rights case law and how the Court develops standards of legal certainty as an integral element of the rule of law. The research results indicate that, although there is no uniform definition of legal certainty in legal theory nor a single, unequivocal determination of the elements encompassed by this principle, the European Court of Human Rights has developed coherent legal standards according to which legal certainty requires that legal norms be accessible and sufficiently foreseeable, judicial practice consistent, final judicial decisions respected and enforced, and that the state refrain from arbitrary intervention through retroactive legislation or unforeseeable changes of the legal framework.*

Keywords: legal certainty, rule of law, European Court of Human Rights, European Convention on Human Rights.