

*Terminology Coordination
Workshop on “Legal Terminology”
Friday 12 March, 9:30 - 11:30*

THE RULE OF LAW IN THE MEMBER STATES AND THE EU

Michael Fuchs

The Union is founded on the values of respect for human dignity, 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

1. Mr Smith parked his car in a spot that was clearly marked as no parking zone. He was given a fine of 100 Euros. He did not complain to authorities because a colleague told him that occasionally and depending on the type of car such fines seem to be much higher, the theory being that it is not fair to impose low fines on people who can afford expensive cars.

(legal certainty; arbitrariness)

2. Mr Smith parked his car in a spot that was not marked as a no parking area. He was given a fine of 20 Euros. When he complained the police inspector explained that the parking ban for this particular spot had been discussed in the local press for months and the City Council had approved it at its meeting that very same morning, it was only a matter of hours until the No Parking sign would be posted.

(legality, legal certainty)

3. Mr Smith parked his car next to several other vehicles parked in the same area. He was given a fine of 50 Euros, the other cars were not fined. The police inspector explained that although there was no general parking ban in the area but the mayor of the city felt that the particular way Mr Smith had parked was a clear provocation of the City Council and could not be tolerated.

(arbitrariness)

4. Mr Smith parked his car in an area where a traffic sign said No Parking During School Holidays. He received a fine of 20 Euros, the police inspector argued that it was very easy to check the dates of the holidays as they are always published on the internet.

(legal certainty)

- a) The Communication from the Commission “A new EU Framework to strengthen the Rule of Law” (COM/2014/158 final) and

- b) “The Rule of Law Checklist” published in May 2016 by the European Commission for Democracy Through Law (aka Venice Commission) of the Council of Europe.

- a)
- Legality (democratic, transparent, (constitutional) and accountable process for enacting law)
 - Legal Certainty (predictability, no retroactive sanctions, protection of legitimate expectations)
 - Prohibition of Arbitrariness of Executive Powers (no corruption or conflict of interests; powers of public authorities are defined by law and cannot be changed retro-actively; proportionality)
 - Independent and Impartial Courts (and court appointments) including effective review of administrative acts and laws
 - Respect for Human (Fundamental) Rights (not autocratic majority rule)
 - Equality before the Law

b)

Lord Justice Bingham (Bingham Center for the Rule of Law):

Core elements of RoL

All persons and authorities within the State, whether public or private, should be bound by and entitled to the benefit of laws publicly made, taking effect (generally) in the future and publicly administered in the courts.

THANK YOU!