

Determinants Influencing the Establishment of the Rule of Law: Comparative Study of France, Germany, and the United Kingdom¹

Factores determinantes que influyen en el establecimiento del Estado de Derecho: estudio comparativo de Francia, Alemania y el Reino Unido

<https://doi.org/10.15332/10667>

Artículos

Elvira Saparbekova²

Ministry of Science and Higher Education of the Republic of Kazakhstan

elvira_saparbekova@edu-knu.com

<http://orcid.org/0009-0002-5362-547X>

Almaz Abylkassymov³

Presidency of the Republic of Kazakhstan

aabylkassymov@yahoo.com

<http://orcid.org/0009-0007-6039-5998>

Dias Beisembayev⁴

Innovative Eurasian University

petrovka38@mail.ru

<http://orcid.org/0009-0007-6116-2299>

Serik Zhetpissov⁵

Toraighyrov University

zhetpisov_serik@mail.ru

<http://orcid.org/0000-0002-4945-4383>

Aldiyar Bexultanov⁶

Toraighyrov University

bek_aldiyar@mail.ru

<http://orcid.org/0000-0001-6049-1647>

¹ The article is the product of research: Determinants Influencing the Establishment of the Rule of Law: Comparative Study of France, Germany, and the United Kingdom. The research was carried out at the Innovative Eurasian University, Pavlodar, Republic of Kazakhstan and Toraighyrov University, Pavlodar, Republic of Kazakhstan

² PhD in Law, Ministry of Science and Higher Education of the Republic of Kazakhstan, Astana, Republic of Kazakhstan, elvira_saparbekova@edu-knu.com, ORCID: <https://orcid.org/0009-0002-5362-547X>

³ PhD in Law, Department of Public Administration, Executive Office of the President of the Republic of Kazakhstan, Astana, Republic of Kazakhstan, aabylkassymov@yahoo.com, ORCID: <https://orcid.org/0009-0007-6039-5998>

⁴ PhD in Law, Department of Jurisprudence, Innovative Eurasian University, Pavlodar, Republic of Kazakhstan, petrovka38@mail.ru, ORCID: <https://orcid.org/0009-0007-6116-2299>

⁵ Doctor of Law, Head of the Department of Jurisprudence, Toraighyrov University, Pavlodar, Republic of Kazakhstan, zhetpisov_serik@mail.ru, ORCID: <https://orcid.org/0000-0002-4945-4383>

⁶ Master in Law, Lecturer at the Department of Jurisprudence, Toraighyrov University, Pavlodar, Republic of Kazakhstan, bek_aldiyar@mail.ru, ORCID: <https://orcid.org/0000-0001-6049-1647>

Received: 5 de marzo de 2024

Accepted: 5 de abril de 2024

How to cite:

Saparbekova, E., Abylkassymov, A., Beisembayev, D., Zhetpissov, S., & Bexultanov, A. (2024). Determinants Influencing the Establishment of the Rule of Law: Comparative Study of France, Germany, and the United Kingdom. *Via Inveniendi Et Iudicandi*, 19(2), 27-51.
<https://doi.org/10.15332/10667>



Abstract

The article analyzes certain determinants of the rule of law in specific countries, namely, the French Republic, the Federal Republic of Germany, and the United Kingdom of Great Britain and Northern Ireland. The authors outline the peculiarities of France's formation as a modern democratic state governed by the rule of law and identify certain factors that contributed to the establishment of the rule of law in France. It has been established that a number of factors contributed to the development of the rule of law in Germany; however, the responsibility of every citizen, as well as that of various organizations, the maturity and high responsibility of the populace, and the advancement of cultural and moral values were the main drivers. The features of Great Britain as a state of law and its legal system are analyzed. It is emphasized that the rule of law in Great Britain was formed under the influence of legal consciousness, the legal culture of the people, and the dynamic development of public life, from the formation of small citizen organizations to mass movements. It is concluded that by examining the variables that affect the development of the rule of law in the examples of specific countries like Great Britain, Germany, and France, it is possible to identify a universal list of specific factors that significantly impact the formation of the state as a rule of law, taking into account the experiences of the selected countries.

Keywords: state of law, civil society, separation of powers, rule of law, democracy, human rights, determinants.

Resumen

El artículo analiza determinados determinantes del estado de derecho en algunos países del mundo, a saber, la República Francesa, la República Federal de Alemania, y el Reino Unido de Gran Bretaña e Irlanda del Norte. Los autores esbozan las peculiaridades de la formación de Francia como un estado democrático moderno regido por el imperio de la ley y ciertos factores que contribuyeron al establecimiento del estado de derecho en Francia. Se ha establecido que una serie de factores han contribuido al desarrollo del Estado de derecho en Alemania, pero la responsabilidad de cada ciudadano, así como la de las diferentes organizaciones, la madurez y alta responsabilidad de la población, y el avance de los valores culturales y morales fueron los principales impulsores. Se analizan las características de Gran Bretaña como estado de derecho y su sistema jurídico. Se hace hincapié en que el imperio de la ley en Gran Bretaña se formó bajo la influencia de la conciencia jurídica, la cultura jurídica del pueblo y el desarrollo dinámico de la vida pública, La formación de pequeñas organizaciones ciudadanas y los movimientos de masas.

Via Inveniendi Et Iudicandi

e-ISSN: 1909-0528 |  <https://doi.org/10.15332/19090528>

Vol. 19 N.º 2 | julio-diciembre de 2024

Se concluye que, al examinar las variables que afectan el desarrollo del estado de derecho en el ejemplo de países particulares como Gran Bretaña, Alemania y Francia, es posible identificar una lista universal de factores específicos que tienen un impacto significativo en la formación del Estado como norma jurídica, teniendo en cuenta la experiencia de los países seleccionados.

Palabras clave: estado de derecho, sociedad civil, separación de poderes, imperio de la ley, democracia, derechos humanos, determinantes.

Introduction

In today's conditions, many constitutions of modern states consolidate the desire of the state to become a legal and democratic state (Bulgaria, Spain). At the same time, there are countries that already consider themselves constitutional states (Ukraine). Among other things, there are states whose constitutions do not enshrine the status of a "rule of law," but in real life, these countries exhibit signs of a rule of law (Great Britain, Belgium, Latvia, France, Denmark, Estonia). It should be noted that the definition at the constitutional level of the state as a legal state, or the desire to be a legal state, is an important prerequisite for the formation of a democratic state, the main purpose of which is to protect and guarantee the observance of fundamental human and civil rights (Babikov et ál., 2023).

However, it is clear that from the declaration in the Constitution to the real implementation of the concept of the rule of law in practice, there is a long way in which the following stages can be distinguished. First of all, the creation of the concept of the rule of law for a particular country must take into account the requirements and characteristics of its society. Second, the development of a legislative framework is necessary to ensure the implementation of the basic principles of the rule of law. The final stage involves the implementation of legal norms in all spheres of public life, including the activities of state authorities, local self-government, and the entire population of the state. At the same time, it is advisable to note that there are many different concepts of the rule of law; however, if society has not reached the appropriate level of legal development, legal culture, and legal consciousness, then it is impossible to build a rule of law (Bryntsev, 2010).

Determinants and factors of the rule of law should be understood as the basic principles on which the formation of the rule of law is based, the initial provisions that contribute to the establishment of a democratic state, reflecting the universal freedoms enshrined in international regulations, and that have found their consolidation in the form of legal norms of a particular state. The process of forming the rule of law is characterized by a single feature: the desire of society to be free and independent, the desire to limit power to the rule of law, to compel the authorities to comply with the law, and to guarantee human rights as a priority value. It was the reform of society and the processes of globalization that made the formation of the rule of law necessary (Güechá Medina y Güechá Torres, 2023).

The global changes taking place in countries around the world, particularly in post-communist states, undoubtedly impact the legal systems of these nations. Such transformational

processes should receive official consolidation both in the main legal ideas and in the fundamental normative legal acts of these countries (Benítez Núñez et ál., 2023).

The collapse of the USSR and the subsequent emergence of new post-communist states was an important moment in world history, particularly in terms of the formation of democracy and the rule of law. This event marked the beginning of profound political, social, and economic transformations. A significant challenge faced by these newly independent countries was to build legal systems that sought to respect and enshrine in law the principles of the rule of law, legality, and democracy. The nuance was that these concepts were completely unfamiliar to these countries, as they had been under the authoritarian regime of the USSR.

Of course, the collapse of the USSR was more than three decades ago, but today, building a strong democracy and the rule of law is a task in progress, not a completed one. In turn, the determinants of law, including the fundamental principles and mechanisms necessary to uphold the rule of law, are rather vague and inconsistently implemented. These circumstances undermine the effectiveness of democratic processes in such states and directly hinder all attempts and efforts to establish reliable governance structures based on the principles of accountability, transparency, and fairness (Berger, 2023).

Such states, with a relatively low level of legal culture and adherence to the rule of law, require significant reforms and the adoption of the experiences of foreign countries that have already passed the stage of establishing the rule of law and restructuring all state, social, and political processes in accordance with the principles of democracy, legality, and the rule of law.

In these conditions, we find it quite useful to turn to the experience of developed modern legal states, namely France, Germany, and the United Kingdom. It should be noted that the study of the experiences of these legal states should not be conducted merely for simple duplication, but rather for the development of reasonable, modern solutions and the creation of a single universal approach to understanding the factors and features that define a state as a legal one. This is because both the law and the legislative acts of these countries enshrine the basic principles and provisions characteristic of a legal state.

Taking into account the experiences of France and Germany, it is important to understand that, as leading members of the European Union, these countries logically play a significant role in shaping European legal norms and international policy regarding the observance of the rule of law. As for the United Kingdom, even after its withdrawal from the European Union, it continues to occupy a prominent position in the European and global environment and confidently upholds the general principles of the rule of law and the foundations of democracy (Głowacki et ál., 2018).

Moreover, even the countries of France and Germany were once significantly influenced by the UK and are characterized by the spread of the British tradition. The British tradition of the rule of law, characterized by principles such as legal equality, procedural fairness, and public accountability, has a significant influence around the world. Since France and Germany have interacted with British legal concepts regarding legal equality, public accountability, and so on

through academic exchanges, legal education, and international cooperation, it is only logical that elements of the British understanding of the rule of law have been incorporated into their legal systems. Although the direct influence of the British context on the development of the rule of law in France and Germany may not be as pronounced, it has nevertheless contributed to the evolution of legal principles and practices in these countries (Burnay, 2018).

For this reason, their experience is relevant not only at the national level for the improvement of their legal institutions but also in the broader European context. Understanding how these countries overcome legal challenges and uphold the rule of law provides valuable information for addressing similar issues at the European level. That is why adopting the experience of the aforementioned countries can be beneficial for a country with a relatively low level of legal culture in the course of its development as a rule-of-law state with a high level of legal awareness among the population and a direct reflection of the principles of the rule of law at the legislative level.

Thus, the formation of the rule of law is a multi-stage, dynamic process that is influenced by many different objective and subjective factors. A systematic study of these factors will provide an opportunity to model the development plan of the state, identify possible obstacles, and predict the consequences. Among other things, the process of forming the state as a legal entity is influenced by the following factors: the political regime, the existing system of public administration, the state of public awareness and legal culture, the socio-economic condition of the state, geopolitical position, customs, and traditions, etc. It is the understanding of the factors that have a significant impact on defining the state as a legal entity that allows modern countries to improve all components of the legal system and become legal states.

At the heart of the transformations are the democratic processes in all spheres of public life, which are inherent in many countries around the world today. Thus, only under democratic conditions are human rights a priority value for the government, which accelerates the transformation of the state into a legal one. Only democracy can ensure the activity of civil society and create conditions for the people's control over state power. The establishment of democratic principles in the state is a prerequisite for effective interaction between the state and civil society. Therefore, two variants of the transformational transition of the state to a democratic and legal framework can be identified: 1) revolutionary, rapid changes that occur with the support of international organizations; 2) evolutionary, dynamic changes that are based on national resources, adapting their own realities to current best world practices (Kormych, 2012).

Through a multidisciplinary approach drawing on legal theory, political science, and historical analysis, this study offers insights into the complex interplay of factors that have contributed to the varying degrees of respect for the rule of law in France, Germany, and the United Kingdom. It also offers recommendations for future directions in the development of legal institutions in countries with a low legal culture, making the article a valuable resource for legal researchers, policymakers, and practitioners.

Due to this, the purpose of this study is to examine the peculiarities of the determinants of the rule of law in individual countries, namely France, Germany, and the United Kingdom, with a view to further developing a universal list of factors that contribute to the formation of the rule of law.

Literature review

A significant number of works in the scientific literature are devoted to the study of certain factors that contribute to the formation of the rule of law and the features that define the state as a legal one.

Among other things, Liubenna (2010) identifies the factors that contributed to the establishment of the rule of law in France. Veremiy (2018) explores the formation of the legal system in France and emphasizes that the legal system is original and has a number of characteristic features. Shmorhun and Vasylytsev (2019) consider the main factors that affect the formation of the rule of law. Serdynskyi (2016) focuses on the peculiarities of jury justice in France and its influence on the formation of the rule of law.

Burnay (2018) analyzes the history of the rule of law in Europe, including Germany, France, and the United Kingdom. It concludes that the rule of law is a dynamic concept, for the expansion and implementation of which lawyers are primarily responsible, and which should be used not only to protect and develop the civil and political rights of individuals in a free society but also to create social, economic, educational, and cultural conditions under which their legitimate aspirations and dignity can be realized.

Głowacki et ál. (2018) analyze the main aspects of the rule of law, including in Germany, where historical traditions are taken into account, on which the principles of the rule of law were formed and the conditions for its observance at various levels of state administration.

Krehul (2020) emphasizes that the right to make decisions related to the activities of the community is the main principle that explores the foundational tenets of a democratic state. He notes the experience of France, which has achieved significant success in the regulatory and technical consolidation of relations between citizens and state authorities. Avramenko (2020) considers the image of modern France as a tool of Soft Power for the state in the international arena and focuses on liberal democratic values, cooperation with former colonies, its role as a leader in Europe, and its role as a mediator state.

Berger (2023) analyzes the specifics of the adoption of laws and their observance in the context of the rule of law. Kudryachenko and Soloshenko (2020) examine the party and political system formed on the basis of the Basic Law of Germany, which is one of the main pillars of democracy in the German state. Savchenko (2012) addresses the issue of constitutional principles of respect for human dignity as a determinant of the rule of law. Fridmanskyi et ál. (2014) focus on the study of theoretical and practical problems related to the constitutional and legal status of the government in the Federal Republic of Germany.

Paslavska (2015) studies the formation and development of constitutional justice in the Federal Republic of Germany, particularly focusing on the Federal Constitutional Court and the Land Constitutional Courts, their jurisdiction, and their leading role in strengthening the constitutional order of the state. Pyrohov (2018) examines the functions of the constitutional complaint institute in the rule of law and analyzes the normative regulation of constitutional complaints in Germany. Korotkov (2000) analyzes how many important principles and provisions necessary for the rule of law are present in the laws and legislation of Germany.

Iatsyshyn (2013) characterizes the features of the British Constitution. Lidovets (2010) explores the main stages in the formation of civil society in the UK, its primary institutions, and the reasons and conditions that contributed to this development. Makarenko (2016) analyzes the development of civil society and its institutions, particularly public organizations, using modern countries as examples. Leshchenko (2018) notes the genesis of the interaction between civil society and the state in the UK and cites the current state of this interaction. Rusavska (2021) focuses on the role of legal culture, particularly in the UK, and its significance as a determinant of the rule of law.

Thus, despite the presence of a large number of scientific works on certain features and factors that define the state as a legal one in the context of globalization processes, the experience of determinants of the rule of law in individual countries acquires special importance, as there is no single comprehensive list of these determinants. The aforementioned works on the peculiarities of the observance of the rule of law contain important information regarding further implementation; however, these studies lack an in-depth analysis of the determinants that influence the establishment of the rule of law, especially in states with a low legal culture. Therefore, the study of this issue will contribute to further scientific research and the development of a single comprehensive list of determinants, which will, in turn, aid in the formation of legal, democratic states.

Materials and methods

The methodological basis of the scientific article is a system of methods and means of scientific research, both general scientific (dialectical, logical, analysis, synthesis) and special (comparative legal, statistical). The use of these methods in conjunction made it possible to achieve the goals and objectives of the research and to provide a comprehensive overview of individual determinants of the rule of law in Germany, France, and the United Kingdom. The systemic method played a primary role in the process of scientific research, which, in some aspects, was supplemented by the axiological method, allowing for the consideration of the possibilities of distinguishing the list of determinants of the rule of law.

The study applies the method of system analysis to determine the individual determinants of the rule of law in the selected countries. Using the functional method, the main functions of the state authorities in these countries, their powers, and the implementation of the principle of separation of powers are identified and studied. Among other things, the functional-instrumental

method allowed for the identification of the main goals and functional purposes of these bodies. The dialectical method was one of the key methodological means for the scientific research of the essence of the rule of law. The application of this method of scientific knowledge directed the search for research results based on the main principles of the dialectical method: historicism, objectivity, and concreteness. The formal-legal method enabled a consistent analysis of the content of legal norms and features, as well as the normative support for the formation and development of the selected countries as legal states. Using methods such as synthesis and analysis, the essence of the functioning of public authorities was studied. The synthesis method took into account the experience of these countries and the basic principles of the work of state authorities in the rule of law.

The peculiarities of the determinants of the rule of law in Germany, France, and the United Kingdom were investigated using the comparative legal method. The use of this method allowed for the attainment of new scientific results when analyzing the outcomes of the implementation of strategic plans and determining proposals for the scientific community. At the same time, all methods of scientific research were utilized in conjunction, which contributed to the comprehensiveness, completeness, and objectivity of this study. The article also employed the method of theoretical generalization in order to determine the prospects and forecasts for further improvement of the list of determinants that contribute to the formation of modern legal and democratic states that align with the values of the contemporary world.

The theoretical and methodological basis of the article is fundamental research on the theory of law and the studies conducted by domestic and foreign scientists on the problems of the rule of law. The foundation of the research includes the contributions of domestic and foreign scientists regarding the rule of law, materials from scientific publications, analytical articles, resources on the Internet, and statistical data from the official websites of public organizations, as well as the legislation of individual countries.

Results and Discussion

Determinants influencing the establishment of the rule of law in France

A form of governance known as a republic, whose fundamental principle is the acknowledgment of human and civil rights as the highest value in the state, is becoming more prevalent during periods of bourgeois revolutions in European countries. As a result, the first legal states were formed, which include France, Germany, and Great Britain. Thus, in the twentieth century, the following determinants of a democratic, rule-of-law state were established: recognition of the rule of law; limitation of power by constitutional norms regarding human rights and freedoms; democracy; and the division of state power among three branches, each of which has its own procedures for creation, competence, and interaction with the other branches of power, as well as the right of the people to choose their leaders, legal consciousness, and the legal culture of citizens, along with an active civil society. Among these factors, the most

important for the formation of the state as a legal entity is the recognition of human rights and freedoms at the constitutional level. This feature is decisive in determining the type of state regime and allows for the distinction between the rule of law and democracy on one hand, and authoritarianism on the other (Liubenna, 2010).

The founding document that contributed to the establishment of France as a state governed by the rule of law is the Declaration of the Rights of Man and of the Citizen, which was adopted on August 26, 1789 (Ministère de la Justice, 2001).

It is worth noting that the French Constitution does not clearly define France as a state governed by the rule of law, but this does not imply the opposite. The Preamble to the Constitution states that the French people solemnly declare their commitment to human rights and the principles of national sovereignty, as defined in the Declaration of 1789, reaffirmed and supplemented by the Preamble to the 1946 Constitution, as well as the rights and obligations provided for by the 2004 Environmental Charter (Veremii, 2018).

However, for the establishment of the rule of law, it is not enough to enshrine the principles of the supremacy of human rights in the Constitution; it is also important to consider one of the key factors that defines the state as legal, namely the division of power into three branches. Thus, according to the provisions of the Constitution of France, the president is a key figure in the state and political mechanism. The President is empowered to monitor the observance of the Constitution, and with the help of the President, the effective functioning of public power is ensured. Among other things, the President of France is the guarantor of national independence and territorial integrity. The head of state in France is elected once every five years through a vote. Additionally, it is the President who appoints the Prime Minister, and at the request of the Prime Minister, the Head of State appoints other members of the Government. The President of France chairs the Council of Ministers (Constitutional Council, 2008).

In France, the government determines and ensures the implementation of the nation's policy, manages the armed forces, and is accountable to parliament. The government is responsible to parliament (Constitutional Council, 2008). For example, in France, a rather favorable form of democratization of executive power is the introduction of a special bureaucratic code, which defines the rules of conduct that officials must follow in the exercise of their powers. This includes compliance with the rules of competitive selection, rotation of personnel to improve skills and avoid corruption, and the provision of benefits and social guarantees (Shmorhun, 2015).

The legislature in France is represented by a parliament, which is empowered by the people to pass laws and control the activities of the executive branch. It is the parliament that evaluates the country's policy (Constitutional Council, 2008). At the same time, a sign of the rule of law in France and the proper implementation of the principle of separation of powers is the presence of an impeachment procedure. According to Section IX of the Constitution of France, the decision to initiate the impeachment procedure is made by an absolute majority of both houses of parliament, and the verdict on impeachment is adopted by the High Chamber of

Justice, which includes representatives from the Senate and the National Assembly (ShmorhunyVasyltsiv, 2019).

The third branch of government is the judiciary, the independence of which is guaranteed by the President (Ministère de la Justice, 2012). Also noteworthy is the jury trial in France, which is distinguished by the following features: the oral procedure for hearing the case, the status of the jury, which is equated with professional judges, and the principle of internal conviction of the jury, on the basis of which the decision is made (Serdynskyi, 2016). Among other things, in the context of our study, we should emphasize a determinant of the rule of law in France: access to justice (ACA Europe, 2021). The judiciary, as one of the branches of government in France, acts as a check on the powers of the executive and legislative branches, ensuring accountability and preventing abuse of power. In addition, the High Council of Justice (Conseil Supérieur de la Magistrature) protects the independence of the judiciary by overseeing judicial appointments, promotions, and disciplinary matters. Moreover, it is important to note that the French judiciary has the power to review the constitutionality of laws and government actions, ensuring that they comply with constitutional principles and respect individual rights. This kind of review power serves as a safeguard against government abuse and ensures that laws comply with the rule of law. France's independent judiciary thus plays a crucial role in upholding the rule of law (Duque Ayala et ál., 2022).

Analyzing the implementation of the basic principles of the rule of law, it is emphasized that the application of this principle in public relations in France demonstrates that relations between citizens and state bodies are built on the requirements of the rule of law, with all subjects of public relations being guided by the rule of law rather than physical coercion. Among other things, the most important aspect is that state power acts within the framework of the law, in accordance with legal norms, guarantees human rights, and ensures their implementation, which determines the direction of the state's activities and legitimizes them (Letourneur y Drago, 1958).

Moreover, another determining factor for the rule of law is the presence of public control. Thus, in France, public control interacts with state power. Article 12 of the Declaration of the Rights of Man and of the Citizen of 1789 states that the guarantee of the rights of man and of the citizen requires public force. The essence of this article is reduced to the fact that public power is a driving force that has received from the people the right to guarantee the observance of human rights. It follows that the people, exercising their right to elect power, have endowed certain citizens with authority, giving consent to comply with the laws of this power; at the same time, the people have the right to demand accountability from the authorities regarding their actions and the observance of the norms of law. Thus, another feature of the rule of law in France is the accountability of the authorities, as public control demonstrates the level of trust the people have in their authorities (Krehul, 2020).

An important determinant of the rule of law is the interaction between the authorities and the people, as authoritarian regimes are guided by the weakness and underdevelopment of civil

society. For example, in France, as a legal state, civil society is developed and competent to put forward its demands to the authorities, which will once again guide the development of France as a legal state (Kochubei, 2011). For this reason, the right to freedom of expression is important; thus, France is one of the first states where the right to information and freedom of speech was guaranteed at the constitutional level. Article 11 of the Declaration states that the free expression of opinions and views is one of the most valuable human rights, and therefore any citizen can freely speak, write, and print. In today's conditions, France's information policy is also quite developed; its main goal is to create a modern information society, reform information legislation, create information security systems, and prevent computer crimes (Kochubei, 2011).

For example, in France, the rule of law exists to preserve and promote accountability. Thus, Emmanuel Macron has demonstrated a commitment to the rule of law in France by promoting gender equality, preserving the country's economic health, and creating an educated and trained workforce that will contribute to better financial security in France (Steen, 2022). Among other things, the rule of law is characterized by the absence of the death penalty. The last execution in France was in 1978, and the death penalty was officially abolished in 1981. In 2007, the Parliament amended the Constitution and clearly prohibited the death penalty at the constitutional level. A constitutional provision banning the death penalty identifies France as one of the 17 countries that have banned it at the constitutional level (Ministere de la Justice, 2012).

Another determinant of the rule of law in France is constitutional control. Typically, constitutional courts are bodies of constitutional control; however, in France, constitutional control is exercised by the quasi-judicial bodies of the Constitutional Council and the State Council. Thus, the Constitutional Council considers the constitutionality of parliamentary documents, while the State Council determines the compliance of government acts with the norms of the Constitution. This form of constitutional control demonstrates that all normative legal acts are reviewed by the Constitutional Council before their public publication. The procedure for checking draft laws by the Council is part of the legislative process, as laws that do not comply with the Constitution will not be adopted (Lomakin, 2018).

Consequently, the main factor in the rule of law for France is the definition of the priority of human rights as inalienable rights. The observance of these rights is the basis of French democracy and France's obligations to the European Union and the international community. France, as a state governed by the rule of law, is particularly active on the following issues in the world: the abolition of the death penalty, the fight against violence, and gender equality. France has many factors that contribute to its development as a legal and democratic state, namely an active civil society, constitutional control, the interaction of the three branches of government, respect for human rights, a highly developed infrastructure, a qualified and productive workforce, a rich and diverse culture, an effective and affordable health care system, and high-quality higher education. All of this forms a positive image of France in the world (Avramenko, 2020).

It is also important to note that the political culture, which encompasses attitudes toward government, democracy, and individual rights, significantly shapes perceptions and practices related to the rule of law in France. Of course, France has a long history of shaping political thought and democracy, which was reinforced by the French Revolution. Such historical events are also reflected in the ideas of those who have defended and continue to defend the ideals of democracy, fraternity, and freedom. The very fact of the revolution instilled a strong negative attitude toward the concentration of power and authoritarianism. On the other hand, it has also fostered a commitment to democratic principles and the rule of law.

In general, the French legal system places considerable emphasis on the authority of legislation and the judiciary. Moreover, there is a strong emphasis on accountability and the rule of law in administration (Lomakin, 2018).

An important nuance is the balance between individual rights and security interests, especially in the area of national defense and counter-terrorism. Attitudes toward individual rights may vary depending on the perception of security threats and the perceived need for decisive government action. At the same time, the institution of the Bar is actively functioning to protect the rights and interests of citizens.

To summarize, the determining factors of the rule of law in France are the separation of state power into legislative, executive, and judicial branches; the independence of the judiciary and the availability of jury trials; public control; a relatively well-established interaction between the government and society; and the functioning of constitutional courts as guarantors of constitutional control.

Determinants influencing the establishment of the rule of law in Germany

The experience of the rule of law in Germany also deserves attention. Article 1 of the Constitution of Germany enshrines the fundamental principle of the country as a state governed by the rule of law, namely the principle of respect for human dignity (Savchenko, 2012). It is stated that human dignity is inviolable, and the respect for and protection of human dignity is the duty of all public authorities. Therefore, the German people recognize inviolable and inalienable human rights as the foundation of every human community, as well as peace and justice in the world. These fundamental rights are binding on the law, the executive, and the judiciary as directly applicable law (The Federal Office of Justice, 1949).

Article 79 of the German Constitution establishes the procedure for amending the Constitution while simultaneously defining human rights as inviolable to prevent future abuses by limiting these rights in emergency situations. Thus, the Constitution of Germany defines a parliamentary system of government with a distribution of powers through the federal system of states. In Germany, the government is divided into three branches: legislative, executive, and judicial. The President has largely ceremonial duties. The legislature is represented by a bicameral parliament consisting of the Bundestag—the Federal Assembly, whose members are elected in national elections every four years—and the Bundesrat—the Federal Council, which

includes representatives of the Länder of Germany. The executive branch is represented by the Federal Chancellor, who is the head of government and is elected by secret ballot by a majority of all members of the Bundestag. The Chancellor appoints all other members of the government (Lehmann, 2023). The Basic Law of Germany also defines an independent judicial system, which consists of the Federal Constitutional Court, the Federal Court of Justice, and administrative, labor, and social courts (Democracy Web, 2016).

In order to build a legal state, it is necessary to take into account the experiences of countries around the world, particularly Germany, which has long existed based on the principles of popular sovereignty, the division of power into three branches, and the diversity of political and ideological views (Fridmanskyi et ál., 2014). An important mechanism for the state that plays a key role in the formation of Germany as a state governed by the rule of law is the activities of the Federal Constitutional Court of Germany, which guarantees compliance with the norms of the Constitution and the protection of human rights. The effective functioning of the constitutional control body is ensured by the presence of expanded powers (Paslavska, 2015).

Thus, Article 93 of the Constitution of the Federal Republic of Germany stipulates that anyone who claims that the state authorities have violated one of the rights guaranteed in the Constitution can file complaints with the Constitutional Court. That is, not only citizens of Germany but also foreign persons can apply to the court. Additionally, legal entities can file complaints regarding the nature of the rights that have been violated against them. Furthermore, hromadas, as local self-government bodies, are also allowed to file a constitutional complaint. Ensuring the right of citizens to participate in the control over the actions of government bodies provides grounds to define the institution of constitutional complaint in Germany as one of the modern institutions of the rule of law and a democratic state (Pyrohov, 2018).

Thus, in Germany, the concept of the rule of law includes both the formal “country of legality” and the material “country of justice” components. This interpretation of the rule of law means that the guarantee of fundamental rights and freedoms for people living in Germany, the restriction of the actions of the authorities regarding these rights, and the presence of norms that establish the stability of the legal system are fundamental for the formation of Germany as a legal state. Thus, the clear provisions of German legislation and their proper application demonstrate the presence of the rule of law. For example, one of the determinants of the rule of law in Germany is to ensure a fair trial, which includes the principles of conducting proceedings in compliance with procedural law. This principle means that each of the parties can actively participate in the trial without violating their dignity. Germany guarantees, as a legal state, a comprehensive study of the evidence available in the case file, the establishment of the actual circumstances of the case, and the observance of justice in relation to both parties (Korotkov, 2000). The right to be heard by a court is enshrined in the Constitution. According to Art. 103 of the Constitution of Germany, everyone has the right to a fair trial in court, regardless of the type and subject matter of the case. A fair hearing means the guaranteed right of both parties to be heard during the trial and to hear the arguments of the opposing party. If the right to a fair hearing is violated, it remains possible to file a constitutional complaint with the Federal

Constitutional Court, which can overturn the decision on this basis (International Commission of Jurists, 1958).

In the formation of the rule of law, the interaction between civil society and the state plays a special role, as the rule of law is not a power that is unwittingly formed, but rather an instrument of the civil community. The actions of the authorities are limited by documents that are adopted by civil society in a referendum or through bodies elected by citizens. The interaction between the rule of law and civil society is based on the founding document, namely the Constitution. For example, Article 20 of the Constitution of Germany states that legislative power is bound by the constitutional system, while the executive and judicial branches are bound by law. Thus, the emergence of civil society is associated with political, legal, and socio-economic factors. If there is a civil society, then, accordingly, there is a legal state.

Civil society in Germany plays an important role in the development and establishment of the rule of law. In Germany, there are a large number of associations that represent civil society in various spheres of public life. In the effective functioning of civil society, the media play a key role. Article 20 of the Constitution of Germany stipulates that all power comes from the people, who have the right to participate in solving state problems. Public associations thus influence community dialogue and contribute to raising the legal culture and legal awareness of the population. The government in Germany has adopted the ideal of a “facilitating state” that creates comfortable conditions for the development of organizations, guarantees freedom of activity, encourages the population to engage in this activity, and fosters motivation for public involvement. The legal culture in Germany is formed from an early age, as children are taught to discuss, formulate their own opinions, and support their arguments. Among other initiatives, the Federal Ministry of Foreign Affairs of Germany regularly conducts training sessions, discussions, and round tables with representatives of civil society, considering them partners (Soloshenko, 2012).

The list of general rights in the Constitution of Germany includes general human rights, such as the right to life, inviolability, equality of rights, freedom of speech, and others. However, a feature of the legal regulation of rights and freedoms in the Constitution of Germany is the enshrinement of the right of citizens of Germany to revolt against all who oppose the existing constitutional order (Kosilova, 2019).

Thus, in Germany, the formation of the rule of law took place under the influence of various factors. However, in the current conditions of transformation processes, it is market relations, the responsibility of each citizen individually and of various organizations, as well as the maturity and high responsibility of citizens for the observance and development of cultural and moral values, and for compliance with the rule of law that have most contributed to the establishment of Germany as a legal and democratic state. At the same time, the provision of human rights, respect for human dignity as the highest priority, the presence of the institution of constitutional complaint, and the role of the facilitating state also became factors that confirm that Germany is a state governed by the rule of law.

For the purposes of our study, it is important to note that Germany has a strong democratic tradition, although it has experienced periods of authoritarian rule in its history. After the overthrow of the Nazi dictatorship, the level of respect for and desire for democracy increased dramatically, and adherence to the rule of law has become a top priority. As a result, there is a strong public and institutional commitment to preventing the emergence of authoritarian regimes and protecting democratic institutions (Kosilova, 2019).

It is also important to add that the nature of Germany's federal structure means that powers are shared between the Länder and the federal government. This is an example of the commitment to decentralized governance and the principles of subsidiarity and accountability of administrative bodies. It should be noted that this system ensures greater local autonomy and citizen participation in decision-making processes, promoting a culture of civic engagement and respect for democratic principles. By its very nature, the rule of law actively promotes consistency in the application of laws, contributing to legal certainty and fairness—from the functioning of the judiciary to the quality of the legal profession.

In summary, the determining factors of the rule of law in Germany are the activities of the Federal Constitutional Court as a guarantor of human and civil rights and the existence of civil society. Both German citizens and foreigners can file a complaint regarding the violation of constitutional rights.

Determinants influencing the establishment of the rule of law in Great Britain

Among other things, the experience of implementing the concept of the rule of law in the constitutional monarchy of Great Britain is special because this country is not characterized by certain factors that exist in other countries of the world, such as the absence of a single codified constitution. However, the UK is one example of a modern state governed by the rule of law, as it upholds the rule of law, has an active civil society, and regards human rights as its highest value.

Thus, the structure of the British constitution combines written and unwritten law, which is explained by a number of factors, namely: 1) the thousand-year experience of parliamentarism; 2) the invariability of the political and legal system over many centuries; 3) the high level of political culture among the British; and 4) a kind of British conservatism. The specificity of the British constitution lies in its lack of systematization, as it does not have a clear classical structure. However, the Constitution consists of different structural parts in essence and content and is flexible, as changes are made in the order of adoption and amendment of laws by Parliament, which are not reviewed by the courts or declared unconstitutional (Iatsyshyn, 2013).

At the same time, we consider it necessary to focus on certain determinants of the rule of law in the UK, namely the presence of civil society. The first attempt at civil society in Britain was to bring citizens together to help the poor around the 18th century. During this period, public associations began to be created in cities, which had different goals, maintained an active civic position, were financed by members' contributions, and acted publicly. Thus, the main goal of

these organizations was to strengthen the fundamental rights characteristic of the rule of law, namely freedom of expression, freedom of association, and the right to complain (Lidovets, 2010).

In 2018, the Ministry of Justice published the “Legal Framework for Increasing Civic Participation.” This act highlighted issues that must be agreed upon with the citizens of the state. The list also included issues that could lead to constitutional changes requiring the active participation of civil society, government policy, and others (Ministry of Justice of UK, 2008). The act introduced a number of factors necessary to increase the level of trust among the people and described the following forms of interaction between the authorities and society: 1) hromada summits, where groups of 500 or more people gathered to discuss relevant topics, the results of which were sent to parliament; 2) hromada juries, which analyzed important state issues like juries, collected relevant information, consulted with experts, and then made decisions. In the future, the government should respond to these decisions; 3) electronic petitions, which would be discussed in the House of Commons (Communities and Local Government, 2006). To realize the rights of citizens and ensure the openness of government policy, the “Have Your Say” platform was launched, where the Ministry of the Interior of the United Kingdom discusses policy changes with citizens, allowing everyone to submit their comments and recommendations on specific issues (Makarenko, 2016).

Also in the UK, an example of interaction between the state and civil society is the special agreements that regulate the order of cooperation and the influence of citizens on decision-making by authorities. The UK has concluded a bilateral formal agreement between civil society and representatives of the state. The Ministry of Justice of the United Kingdom notes that measures to strengthen the role of civil society in democratic processes and increase citizens’ trust in the authorities will be effective under the following conditions: 1) the authorities will take into account the interests of all segments of the population, so society should be informed about the actions of the authorities; 2) the involvement of broad groups of communities to participate in public events; 3) the involvement of citizens in the discussion of public policy issues, the presence of feedback, and the assessment of citizens’ decisions, taking into account the opinion of society; 4) publicity and transparency; 5) the systematic nature of interaction with civil society; 6) compliance with the fundamental principles of a democratic state (Leshchenko, 2018).

One of the manifestations of the rule of law is the high level of trust that the people have in the judiciary in the UK. Thus, judges have always held significant authority in the field of lawmaking. This is facilitated by the material and legal support provided to judges, which contributes to the respect for the court and the conscientious execution of court decisions. Citizens’ trust in the judiciary in the UK is a historic achievement. The modern judiciary in the country maintains its authority among the people through high qualifications and moral requirements for judges, as well as the independence of the judiciary, objectivity, openness, and equality for all citizens. In maintaining a high level of trust in the judiciary in the UK, an important role is played, among other factors, by the historical and cultural traditions of the

judicial system's functioning and the effectiveness of the law-making and law enforcement activities of English courts (Novoselova, 2020).

In addition, the UK legal system is a vivid example of an internal dialogue of legal cultures. After all, law in the UK has been unwritten from time immemorial, but with the formation of written sources of law, the legal customs and traditions that were applied in a particular area were unified and incorporated into the common law of the state. Thus, there was a process of interaction among legal cultures, in which various values prevailed. At the same time, the problems of the formation and functioning of the rule of law are directly and closely related to the specifics of its legal culture, based on the fact that the rule of law cannot be created, built, or formed by decrees of the authorities or laws, because the rule of law is established under the appropriate conditions for building a society. Legal culture is the foundation for the formation of the rule of law. Legal culture reflects the relevant level of development of society as a whole (Rusavska, 2021).

As already noted, the UK does not have a written constitution inherent in other rule of law states, but the rule of law, together with parliamentary sovereignty and judicial decisions, is a fundamentally determining principle of the law in this country. The rule of law in the UK includes a number of fundamental principles and values, namely: 1) the principle of legal certainty, which means that all laws adopted in the UK must be applied clearly and predictably. This means that when legislation is passed to convey a particular purpose, that purpose is fulfilled within the law. Everyone should be able to regulate their behavior accordingly. 2) the principle of equality, which means that each similar case is treated in the same way. Every citizen has the right to protection from unfair discrimination by the state. 3) the principle of fairness, according to which all laws and procedures should be freely available to every citizen, and the laws that are recorded should also be legible in order to ensure clarity and prevent unfair discrimination and application. 4) The law must be intelligible, and the terminology must not be such that a person does not understand it; nor must the legislation be too ambiguous to obscure the grounds for its adoption. 5) Legislation should not be retrospective. 6) Due process means that a person will be imprisoned or otherwise punished only if there is substantial and sufficient evidence of their guilt. A notable case that sought to establish the rule of law in the United Kingdom was *Entick v Carrington*. This case showed that the police must demonstrate the powers granted to them by law in order to enter a person's private property and seize personal belongings. Here, the police entered Entick's property and seized personal documents without a warrant, which led to his arrest and loss of personal freedom. The fundamental value of the rule of law is that a person cannot lose their personal freedom unless it is proven that they have violated the law (Laver, 2020).

Nowadays, English law and English courts are viewed as a system that can be trusted by all parties. They promote certainty and predictability. The decisive factor is that the UK judicial system is characterized by the highest quality and honesty and does not depend on the influence of the authorities (Supreme Court of the UK, 2020). The rule of law was mentioned in connection with a number of issues that were discussed in Parliament. Thus, the results of this

study indicate that the rule of law is perceived by MPs and colleagues as a principle or value to be supported by Parliament (Bingham Centre for the Rule of Law, 2016).

Although power in the UK is divided into three branches, the traditional notion of separation of powers does not apply in a political context. The Westminster model actually blurs the line between the legislative and executive branches of government. As a result, a party that has a majority in the House of Commons simultaneously forms a government and dominates the legislative process. Parliamentary sovereignty gives the executive de facto sovereignty through its dual role in the legislative branch. The Prime Minister is also a legislator. It is true that the bill must go through the process of amending in the House of Commons and the House of Lords (Sitar, 2021). An overwhelming majority of British citizens consider the rule of law to be vital, with 83% agreeing that the rule of law is “necessary” for a free and democratic society, and 74% agreeing that it is “necessary” for a successful economy. Many also see it as central to the UK’s international standing, with 67% saying they care if others see the UK as adhering to the rule of law (Hyde, 2023).

British society values honesty, fairness, and the rule of law as fundamental principles underpinning social cohesion and trust in institutions. Legal rules and procedures are expected to be applied consistently and impartially, and equality before the law guarantees fair treatment for all persons, regardless of their status or background. The rule of law acts as a bulwark against corruption, arbitrariness, and abuse of power, strengthening public confidence in the legal system.

Accordingly, the rule of law in the UK was formed under the influence of legal consciousness and the legal culture of the people, as well as the dynamic development of public life, ranging from the formation of small organizations of citizens to mass movements. It was the strengthening of legal culture, civic engagement, and consciousness, along with the involvement of civil society in state processes, that made democratization possible and contributed to the formation of the United Kingdom as a state governed by the rule of law (Lidovets, 2010).

Recommendations for further directions for the development of legal institutions

Examining the determinants that affect the development of the rule of law using individual countries such as Great Britain, Germany, and France as examples, we can conclude that despite the significant diversity of legal systems in these countries, we can distinguish a universal list of individual aspects that have a decisive influence on the formation of the state as a legal entity, taking into account the experiences of the selected countries.

Thus, it is advisable to take into account the experience of France in approving the concept of the rule of law and the main factors that contributed to this, namely: 1) the definition of human rights as inalienable rights, the obligation of the state to guarantee the observance of these rights and their protection not only on paper but also in practice; 2) the presence of a quasi-judicial body of constitutional control—the Constitutional Council—and the institution of

constitutional complaint; 3) the abolition of the death penalty at the constitutional level; 4) an active civil society that has a high level of trust in the government; 5) the division of state power into three equal branches that are independent of each other but interact through systems of checks and balances; 6) an active civil society that controls state power; 7) the power of the nation.

In addition, in Germany, the formation of the rule of law took place under the influence of various determinants, namely: 1) the consolidation of the constitutional inviolability of human dignity; 2) the activities of the Federal Constitutional Court of Germany, which guarantees compliance with the norms of the Constitution and the protection of human rights; 3) the division of power into three independent branches; 4) the consolidation of democracy at the constitutional level; 5) the establishment of Germany as a facilitating state that creates comfortable conditions for the development of organizations, guarantees freedom of activity, encourages the population to engage in this activity, and creates motivation for public involvement; 6) a high level of legal culture in Germany, which is cultivated from school, where children learn to discuss, formulate their own opinions, and support them with arguments; and 7) the active participation of civil society in the decision-making processes of state power.

We consider it expedient to take into account the experience of Great Britain, since the main role in the formation of Great Britain as a rule of law has been played by determinants such as legal culture, the rule of law, and civil society. The rule of law in the UK is shaped by the influence of legal consciousness, the legal culture of the people, and the dynamic development of public life, ranging from the formation of small organizations of citizens to mass movements. It is worth noting the experience of concluding agreements between the state and civil society on interaction, holding community summits for discussions on the relevant topics, the jury of hromadas that analyzed important state issues, electronic petitions, and the launch of the “Have your say” platform. These efforts have contributed to the unification of citizens and the formation of a single legal culture, the legal awareness of civil society, and the establishment of the rule of law, as well as the authority of the judiciary among the people through high qualifications and moral requirements for judges and the independence of the judiciary.

Also, in view of the above facts, it is advisable to compare the key indicators of the rule of law — legal certainty, accessibility and enforcement— in France, Germany and the UK.

With regard to the aspect of legal certainty in France, it is modified by the tradition of civil law, which is regulated by statutory instruments. These legal acts clearly define and outline the boundaries of legal norms, which in turn contributes to the predictability and consistency of legal results. However, the nuance that we believe is quite significant is the complexity and the large number of legal acts that create problems for practitioners and citizens in navigating the legal system. As for Germany, there is a certain balance between statutory law and court precedents.

The principle of legal certainty (*Rechtssicherheit*) is supported by constitutional guarantees, judicial review, and adherence to established legal principles. It is the Federal

Constitutional Court, as we have mentioned above, that ensures coherence and consistency in the application and interpretation of the law.

As for the UK, the rule of law is quite flexible and adaptive in view of the development of legal principles through court decisions and precedents. Legal certainty is maintained through parliamentary statutes, judicial interpretation, and adherence to constitutional conventions. This does not, in any way, create a problem due to the absence of a written constitution. Just as in Germany, the UK Supreme Court plays a crucial role in clarifying legal uncertainties and resolving conflicts between laws and common law principles.

It can therefore be concluded that all three countries place considerable emphasis on legal certainty. However, France relies heavily on codified laws, Germany emphasizes constitutional guarantees, and the UK gives priority to common law precedents.

In terms of accessibility, it is important to note that France, Germany, and the UK emphasize the importance of access to justice through a network of courts, legal aid, and alternative dispute resolution mechanisms.

However, in turn, France and Germany emphasise geographical proximity and accessibility, while the UK focuses on modernisation and efficiency through technological innovation.

With regard to the important aspect of respect for fundamental rights, France, Germany, and the UK all commit to respecting fundamental rights through constitutional provisions, judicial oversight, and international human rights standards. While they prioritize the protection of rights, the specific challenges and areas for improvement differ, reflecting different legal frameworks and socio-political contexts.

Based on the results of the research, we can confidently determine not only the main determinants of the rule of law but also the basic recommendatory aspects that should be taken into account by countries with a low legal culture on the way to complying with the principles of the rule of law.

The main aspects are: 1) declaring basic human rights inalienable and guaranteeing their observance; 2) democracy and the sovereignty of the people; 3) ensuring compliance with the Constitution and human and citizen rights through constitutional control; 4) involving the public through training, projects, and discussions to participate in the adoption of state decisions; 5) active participation of public associations and mass media in public activities related to state decisions; 6) a high level of legal awareness and legal culture among the population, political culture among the population, and the readiness of civil society to form a legal state; 7) the division of state power into three independent branches: legislative, executive, and judicial; 8) the affirmation of the rule of law in all actions of both citizens and authorities; 9) confidence in the judiciary and judicial control.

Thus, the rule of law can be defined as a state in which a model of public administration prevails, where the exercise of the powers of public authorities is based on democratic principles

that guarantee the priority of human and civil rights. There is a clear system of legislation that is embodied in law enforcement through the prism of the rule of law and is carried out on the basis of the independence of the legislative, executive, and judicial branches of state power, built using the mechanisms of the system of checks and balances. It is in the presence of such real prerequisites that it is possible to build a model of the rule of law.

Taking into account the above, we can conclude that the experience of the influence of certain determinants on the formation of legal and democratic states is universal and can be used to improve the concept of the rule of law in individual countries around the world, which will lead to the observance of fundamental and basic human rights as a priority in more countries globally.

Conclusions

The collapse of the USSR and the subsequent emergence of new post-communist states marked an important moment in world history, particularly regarding the establishment of democracy and the rule of law. This event initiated profound political, social, and economic transformations. A significant challenge for the newly independent countries was to build legal systems that sought to respect and enshrine in law the principles of the rule of law, legality, and democracy. The nuance was that these concepts were completely unfamiliar to these countries, as they had been under the authoritarian regime of the USSR. This is why the experience of France and Germany was important; as leading members of the European Union, these countries logically play a significant role in shaping European legal norms and international policy in the area of the rule of law. As for the United Kingdom, even after leaving the European Union, it continues to occupy a leading position in the European and global environment and confidently upholds the general principles of the rule of law and democracy.

The determining factors of the rule of law in France are the separation of state power into legislative, executive, and judicial branches; the independence of the judiciary and the availability of jury trials; public control; a relatively well-established interaction between the government and society; and the functioning of constitutional courts as guarantors of constitutional control.

The determining factors of the rule of law in Germany are the activities of the Federal Constitutional Court as a guarantor of human and civil rights, as well as the existence of civil society. Both German citizens and foreigners can file a complaint about the violation of constitutional rights.

Accordingly, the rule of law in the UK was formed under the influence of legal consciousness and the legal culture of the people, as well as the dynamic development of public life, ranging from the formation of small organizations of citizens to mass movements. It was the strengthening of legal culture, civic engagement, and consciousness, along with the involvement of civil society in state processes, that made democratization possible and contributed to the formation of the United Kingdom as a state governed by the rule of law.

Based on the results of the research, we can confidently determine not only the main determinants of the rule of law but also the basic recommendatory aspects that should be taken into account by countries with a low legal culture on their way to complying with the principles of the rule of law.

The main aspects are: 1) declaring basic human rights as inalienable and guaranteeing their observance; 2) democracy and the sovereignty of the people; 3) ensuring compliance with the Constitution and human and citizen rights through constitutional control; 4) involving the public through training, projects, and discussions to participate in the adoption of state decisions; 5) active participation of public associations and the mass media in public activities related to state decisions; 6) a high level of legal awareness and legal culture among the population, political culture among the population, and the readiness of civil society to form a legal state; 7) the division of state power into three independent branches: legislative, executive, and judicial; 8) the affirmation of the rule of law in all actions of both citizens and authorities; 9) confidence in the judiciary and judicial control.

References

- ACA Europe. (2021). *Administrative justice in Europe: Report for France*. https://www.aca-europe.eu/en/eurtour/i/countries/france/france_en.pdf
- Avramenko, V. Y. (2020). The image of modern France as an element of “soft power” of the state in the international arena. *Bulletin of the Student Scientific Society of the Donetsk National University Named after Vasyl Stus*, 12(1), 6-11.
- Babikov, O., Amanbay, Z., Plakhotnik, O., Khovpun, O. y Lyseiuk, A. M. (2023). Aseguramiento de las garantías procesales y del derecho a un juicio imparcial durante la revisión de mociones para hacer investigaciones encubiertas. *Via Inveniendi Et Iudicandi*, 18(2), 95-111. <https://doi.org/10.15332/19090528.9733>
- Benítez Núñez, C., Manrique Molina, F. E. R. y Hernández Ramírez, M. Y. (2023). Análisis del lawfare y la judicialización de la política. Retos de la democracia constitucional en América Latina. *Via Inveniendi Et Iudicandi*, 18(1). <https://doi.org/10.15332/19090528.9198>
- Berger, E. (2023). *The German legal system*. <https://www.ieg-ego.eu/en/threads/crossroads/legal-families/elisabeth-berger-the-german-legal-system>
- Bingham Centre for the Rule of Law. (2016). *A research report by the Bingham Centre for the Rule of Law for the All-Party Parliamentary Group on the Rule of Law*. https://binghamcentre.biicl.org/documents/871_exec_summary_standalone_-_rule_of_law_in_parliament_2016-01-21.pdf
- Bryntsev, V. D. (2010). *Standards of the rule of law: Implementation in the national model of organizational support of judicial power*. Pravo.
- Burnay, M. (2018). The rule of law: Origins, prospects and challenges. En M. Burnay (Ed.), *Chinese perspectives on the international rule of law* (pp. 11-44). Cheltenham: Edward Elgar Publishing. <https://doi.org/10.4337/9781788112390.00007>

- Communities and Local Government. (2006). *Strong and prosperous communities*.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/272357/6939.pdf
- Constitutional Council. (2008). *Texte intégral de la Constitution du 4 octobre 1958 en vigueur*. <https://www.conseil-constitutionnel.fr/le-bloc-de-constitutionnalite/texte-integral-de-la-constitution-du-4-octobre-1958-en-vigueur>
- Democracy Web. (2016). *Rule of law: Country studies – Federal Republic of Germany*.
<https://demo.democracyweb.org/rule-of-law-germany>
- Duque Ayala, C., Sánchez Hernández, H. A., Pinedo, M. F., Carreño, D. y Cárdenas, C. (2022). Avances en la constitucionalización del procedimiento contencioso administrativo colombiano en tiempos del covid-19. *Via Inveniendi Et Iudicandi*, 17(1), 58-81. <https://doi.org/10.15332/19090528.7741>
- Fridmanskyi, R. M., Bysaha, Yu. M. y Bielov, D. M. (2014). *Constitutional and legal status of the government in Ukraine and Germany: A comparative legal analysis*. Helvetyka.
- Głowacki, K., Hartwell, Ch., Karunska, K., Kurczewski, J. y Krell, M. (2018). Prinzip der Rechtsstaatlichkeit und ihre soziale Wirkung als Determinante des ökonomischen Wachstums: Eine vergleichende Analyse Deutschlands und Polens. https://www.case-research.eu/files/?id_plik=6580
- Güechá Medina, C. N. y Güechá Torres, J. T. (2023). De la causalidad jurídica a la causalidad material en la responsabilidad del Estado: Un análisis desde el positivismo jurídico. *Via Inveniendi Et Iudicandi*, 18(2), 174-192. <https://doi.org/10.15332/19090528.9737>
- Hyde, R. (2023). Identity and influence: A role for the rule of law in strengthening British national identity and maintaining the UKs soft power. *Social Market Foundation*. <https://www.smf.co.uk/publications/identity-and-influence/>
- Iatsyshyn, M. (2013). *Fundamentals of the constitutional law of Great Britain*. Lesya Ukrainka Volyn National University. <https://core.ac.uk/download/pdf/153576923.pdf>
- International Commission of Jurists. (1958). *The rule of law in the Federal Republic of Germany*.
<https://www.icj.org/wp-content/uploads/1958/12/Germany-rule-of-law-non-legal-submission-1958-eng.pdf>
- Kochubei, L. (2011). The semi-presidential republic of modern France: The path to authoritarianism or democracy? *Political Management*, 5, 164-173.
- Kormych, L. I. (2012). Determinants of the process of establishing the rule of law in Ukraine. *Actual Problems of Politics*. National University “Odesa Law Academy”.
- Korotkov, M. O. (2000). The rule of law in Germany and some problems of German industry legislation. *Rule of Law*, 2, 70-72.
- Kosilova, O. I. (2019). Human and citizen rights and freedoms: Conceptual approaches to differentiation in Germany and Ukraine. *Information and Law*, 4, 20-27.
- Krehul, Ya. M. (2020). Public control in Ukraine and France: A comparative legal study. *Actual Problems of the State and Law*. Helvetyka.
- Kudryachenko, A. I. y Soloshenko, V. V. (2020). Problems of the political transformation of the Federal Republic of Germany at the current stage. *Diplomatic Ukraine*, 1, 700-716.
- Laver, N. (2020). *The rule of law in the UK*. <https://www.claims.co.uk/knowledge-base/legal-system/the-rule-of-law/>
- Lehmann, J. (2023). *Legal systems in Germany: Overview*. [https://uk.practicallaw.thomsonreuters.com/w-007-7132?transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://uk.practicallaw.thomsonreuters.com/w-007-7132?transitionType=Default&contextData=(sc.Default)&firstPage=true)

- Leshchenko, R. M. (2018). Relations between the state and civil society in Great Britain: Experience for Ukraine. *Law Forum*, 3, 48-55.
- Letourneur, M. y Drago, R. (1958). The rule of law as understood in France. *The American Journal of Comparative Law*, 7(2), 147-177.
- Lidovets, R. A. (2010). Formation of civil society in Great Britain. *Journal of the National University "Ostroh Academy*, 2, 1-13. <https://lj.oa.edu.ua/articles/2010/n2/10lrasuv.pdf>
- Liubenna, T. K. (2010). The Declaration of the Rights of Man and Citizen of 1789 as an ideological foundation for the establishment of a democratic legal regime in France. <http://dspace.pnpu.edu.ua/bitstream/123456789/3643/1/Ljubenna.pdf>
- Lomakin, M. (2018). The French model of constitutional control. *Entrepreneurship. Economy and Law*, 4, 150-155.
- Makarenko, L. P. (2016). Problems of communicative interaction between the state and civil society. *Gilea: Historical Sciences, Philosophical Sciences, Political Sciences*, 106(3), 334-338.
- Ministère de la Justice. (2001). *Declaration of the Rights of Man and of the Citizen of 1789*. <http://www.textes.justice.gouv.fr/textes-fondamentaux-10086/droits-de-lhomme-et-libertes-fondamentales-10087/declaration-des-droits-de-lhomme-et-du-citoyen-de-1789-10116.html>
- Ministère de la Justice. (2012). *The French legal system*. https://www.justice.gouv.fr/art_pix/french_legal_system.pdf
- Ministry of Justice of UK. (2008). *A national framework for greater citizen engagement*. http://webarchive.nationalarchives.gov.uk/+http://www.justice.gov.uk/docs/citizen_engagement.pdf
- Novoselova, V. V. (2020). *Formation of trust in the judiciary in Ukraine in the context of the establishment of the principle of the rule of law: Theoretical and legal foundations*. V. N. Karazin National University.
- Paslavska, N. T. (2015). *Formation and development of the constitutional justice of the Federal Republic of Germany: A historical and legal study*. Ivan Franko National University of Lviv.
- Pyrohov, V. S. (2018). *The institute of constitutional complaints in Ukraine and certain foreign countries (Republic of Poland, Germany): A comparative legal study*. National University "Odesa Law Academy".
- Rusavska, O. O. (2021). *Dialogue of legal cultures: Legislation and case law*. National University "Odesa Law Academy".
- Savchenko, V. A. (2012). Respect for human dignity as a fundamental principle of the rule of law. *Carpathian Legal Bulletin*, 2, 273-283.
- Serdynskiy, V. S. (2016). Peculiarities of the administration of justice by jury in the French Republic. *Scientific Bulletin of the International Humanitarian University*, 20, 165-168.
- Shmorhun, O. O. y Vasylytsiv, O. O. (2019). The ideals of Western democracy and the rule of law as a conceptual basis for the formation of national political interests. En "Social ideal" and "political interest": Theoretical understanding and practice of the countries of the world (pp. 13-19). State Institution "Institute of World History of the National Academy of Sciences of Ukraine".
- Shmorhun, O. O. (2015). State policy of the development of civil society as a factor in the formation of the general anti-crisis strategy. *Viche*, 2, 19-23.
- Sitar, T. (2021). Rethinking the concept of the rule of law in modern Britain. *LSE Law Review*. <https://blog.lselawreview.com/2021/04/rethinking-the-concept-of-the-rule-of-law-in-modern-britain>
- Soloshenko, V. V. (2012). "Facilitating state" and civil society as the main components of the functioning democracy in Germany. *Foliant*.

Steen, R. (2022). Fragility and rule of law in France and Macrons next term. *The Borgen Project*.

<https://borgenproject.org/rule-of-law-in-france/>

Supreme Court of the UK. (2020). *The rule of law, the courts and the British economy* Lord Hodge, Deputy President of the UK. <https://www.supremecourt.uk/docs/the-rule-of-law-the-courts-and-the-british-economy.pdf>

The Federal Office of Justice. (1949). *Grundgesetz für die Bundesrepublik Deutschland*. <http://www.gesetze-im-internet.de/gg/index.html>

Veremiy, D. V. (2018). The originality of the French legal system as part of the Romano-Germanic legal family. En *Current tendencies in the development of the rule of law in Ukraine and the world* (pp. 180-182). Zhytomyr National Agroecological University.