# THE PROBLEM OF CORRELATIONSHIP BETWEEN EUROPEAN PRINCIPLES OF LAW AND CHISTIAN VALUES IN THE CONTEXT OF CURRENT CHALLENGES

**Nesprava Mykola**[1]

**Abstract**. The article deals with the problem of correlationship between European principles of law and Christian values. The author analyses the causes of current European legal system's axiological crisis. Practice has shown that the secularist principles enshrined in the Treaty of Lisbon have led not to the dreamed multiculturalism, but to the erosion of European identity as the basis of cultural-civilizational association. The historical and philosophical methods allow to reveal the role of Christian values in the creating of European law. The Christian spirit permeates the constituent documents and basic legal acts of the EU and the Council of Europe. European principles of law are based on humanistic values such as human dignity, freedom, equality and solidarity. These European values have their own sources in the Biblical commandments. Love, charity and right to life are the fundamental principles of the Christian humanism. Human dignity as an ethical category acts as an axiological and teleological core of law principles. Such axiological pillars as freedom, justice and responsibility are the connecting links in the relation between European principles of law and Christian values. The author shows the need for the legal state as a guarantor of the balance of human rights and freedoms with duties and responsibilities as higher Christian virtues. Divine origin of law and its subjective perception as justice explain the spiritual foundation of the Rule of Law principle. The Rule of Law establishes the supremacy of truth and justice, over formal legacy and political ideology; the priority of human rights over the interests of the state; non-interference of the state with private life, especially in matters of faith, and self-government of civil society structures, including religious organizations. Thus, it can be considered proven

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[1] Candidate of Philosophic Sciences, Associate Professor,
Associate Professor of the Department of Social Sciences,
Dnipropetrivsk State University of Internal Affairs, Ukraine

that the Christian values constitute the axiological basis of European law. The author argues that these values have to be implemented in the legal norms and must remain a powerful factor that regulates social relations, even in a secularized Europe, especially in such sensitive areas as family, the birth and education of children, and the care for those in need. Europe should abandon any moral permissiveness. Europeans have to recall the Gospel commandments and the principles of self-restraint, responsibility and solidarity inherent in the Christian values and to consolidate them at the legislative level.

## 1. Introduction

At the end of the XX and early XXI centuries, the European Union experienced a period of creative inspiration and unprecedented expansion. However, in the second decade of the new millennium, this unique international association has plunged into a deep crisis. Financial, economic and socio-political problems intertwined in one club. These negative processes led to an increase in the positions of euroskeptics, which puts hopes for solving these problems faster at national institutes than at pan-European ones. As a result, practically in all EU member states, the centrifugal forces began to overcome their integration intentions, and Britain even decided to withdraw from the European Union. Thus, there is a real threat of EU disintegration. This threat put on the agenda the need for a systematic update of the European Union. Obviously, the restoration of the building of the European Union must begin from its basic structure – the legal system. But for this, first of all, it is necessary to recall the value fundament that this construction holds. Thus, the research problem is stated as follows: how can Christian values affect the reform of the European legal system? The current paper aims to reveal the role of Christianity values for the design of EU integration's legal framework and to substantiate the importance of the Christian interpretation of such fundamental principles of European justice as humanity and the Rule of Law in the context of modern challenges. The definition of the axiological basis of European law has fundamental importance for the scientific analysis of its moral content in order to propose the prospects for further development, and practical improvement of EU law basic provisions. Understanding the moral basis of European law will also help to direct law-making activity in Ukraine towards approximation of Ukrainian law with the standards of the European Union more efficiently.

## 2. European identity and the Christian spirit of the EU Constituent Acts

In a broad general sense, European law is a complex of legal systems, united by the common cultural and civilization tradition of Europe. In a narrower concrete sense, European law means, in the first, as the supranational legal basis of the European Union, and as the acts of the Council of Europe too. Last year the European Union celebrated three commemorative anniversaries. On March 25, 1957 the Treaty establishing the European Economic Community was signed. This organizational structure ensures the social and economic integration of Europe for 60 years. The quarter-century since the signing of the Maastricht Treaty, which laid the foundation for the European Union itself as a unique international establishment, was marked on February 7, 2017. The 10th anniversary of the signing of the Lisbon Treaty, which is still called the EU's small Constitution, and launched a qualitatively new stage in the functioning of the Union, was celebrated on December 13, 2017. These acts are of enormous importance, because they have created the framework of the modern European legal system. However, the jubilee year turned out to be a 'celebration with tears in the eyes' for the EU – so many cardinal problems fell on Europeans at the same time.

George Soros, who is known for his ability to look into the future, evaluates the crisis in the European Union more disturbingly. "The European Union really broke. It has ceased to meet the needs and aspirations of its citizens. It is moving to a chaotic disintegration that will leave Europe in a worse condition than what we would have if the European Union had not been created at all, – the authoritative analyst stresses. – Yes, it must be admitted that the EU is built incorrectly. But we should not give up. After Brexit, all those who believe in the values and principles on which the EU was founded should unite in order to preserve it, but in a substantially updated form" [1]. Under pressure from a number of challenges faced by the EU, the President of the European Commission, Jean-Claude Juncker, recognized the need to discuss the further model for the integration of countries on the continent. The leaders of the major European institutions aim to improve governance to the extent possible under the current EU treaties, extending the steps taken since the financial crisis. However, fundamental policies involving substantial sovereignty sharing remain vague. Since they require a meaningful EU treaty change, they have been put on the back burner, ostensibly to be brought forward after the UK referendum and the elections in France and Germany. But, as Themis Themistocleous

and Ricardo Garcia note, given the time required to effect a meaningful treaty change, the current institutional framework will remain in limbo for the foreseeable future, leaving Europe vulnerable to shocks [2, p. 22]. In an attempt to present a new format for integration in which the European Union would be able to overcome the existing crisis, the European Commission on March 1, 2017 presented a White Paper on the future of Europe by 2025. However, instead of the expected single model for the future of the EU, the document offers five separate scenarios for the integration process [3]. This fact testifies to the inability of European officials to outline clear prospects for a united Europe. In our opinion, such confusion is explained by the issue that the EU's value foundation, laid down at its genesis, has been thoroughly washed up over the past decade.

While defending the importance of this foundation of the European Union, Kadri Kaan Renda revealed the content of ideological disputes. which unfolded during this period among the Europeans. He draws attention to the existence of two interconnected debate platforms that relate to the content of the current stage of European integration. The first outlines the debate between supporters of a liberal market economy (whose ideology usually has Protestant roots) and their opponents – advocates of a social market economy (whose ideas are based on the Catholic principles of solidarity). The second is the debate between those who believe that the basis of European integration should be the values of freedom, including multiculturalism, on the one hand, and those who defend the position of the need to protect traditional values – on the other [4]. In this sense, he opposes the concept of secular and multicultural Europe, on the one hand of the dichotomy, to the concept of Christian and anti-multicultural Europe, on the other hand.

It should be noted that the Lisbon Treaty, which was signed by the leaders of the EU member states in 2007 and came into force in 2009, enshrines the basic principles such as pluralism, tolerance, solidarity, non-discrimination both within member states and outside of them [5]. Although the Christian parties demanded the inclusion in this document, which defines the main directions of the restructuring of the European Union, also a provision on the prominent role of Christian values in ensuring European unity. In this sense, they emphasized the Christian roots of Europe and advocated that European identity and ideals can not ignore the role of Christianity in their formation. For them, the European idea must be in line with Christi-

anity. In this regard, Kenneth Houston points out that even before the controversy over the Invocatio Dei, proposed for inclusion in the preamble to the European Union's defunct Draft Constitution, the role of religion in European integration had moved toward the centre of political consciousness [6]. However, the signatories of the document contrary to the recommendations of the clerics refused to include the provisions on Christian values as the basis of European integration, although they mentioned the significance of religion as a whole. According to Sergey Mudrov, the text of the Lisbon Treaty reflects the struggle between religious and secular actors [7]. So, as a result 10 years ago the position of secular multiculturalism has overcame. However, dramatic events unfolding recently in the European Union – the onslaught of migrants from the Muslim countries of the Middle East, a surge in Islamist terrorist attacks, which in turn resulted in the strengthening of ultra-right parties and, finally, led to Brexit – have shown that the rebuilding of the European palace on the principles of secularism led to the it cracking.

And in this regard, it is important to emphasize that the consideration of the European integration is based on the fact that an identity is the leading motive of some socio-political association. Speaking about self-identification as a core of civilization, Samuel Huntington wrote: "Throughout history, civilization represented the highest level of identification for people. Civilization is the highest cultural integrity. Civilizations are the largest "we", within which each feels himself culturally at home and distinguishes from all other "they" [8, p. 43]. Obviously, in the second decade of the twenty-first century the Europeans began to lose sentiment of a cultural home coziness on their own continent. The British are hoping to escape from someone else's influence over the Channel, more and more Frenchmen in search of salvation of what Madame de Stal called 'penser a l'europeenne' (to think as European), hope for Marin Le Pen, voices of revenge seeker, who got the motto 'Germany for Germans!' from the Nazi grave, became louder in in Germany, the position of the euro-skeptics is intensifying in Hungary and Poland. These facts indicate that the existing secular EU multicultural project has created ambivalent and controversial feelings about the establishment of a European identity.

And so, it should be reminded that the European project was conceived as a value-oriented civilization association from its beginning. Robert Schumann, one of this project's developers, believed that European reunion

would not be possible without "inspiration coming from its Christian origins", and Europe is "the embodiment of universal democracy, in the Christian sense of the word" [9, p. 50]. The idea of a united Europe, which was embodied in the Treaty of Rome on the establishment of European Communities 60 years ago, has deep roots based on Christianity. Most scholars agree that organized Christianity appears as a unifying force on the continent since the Middle Ages. Describing the historical process of forming the concept of Europe as a holistic entity, Norman Davis points out that in the absence of common political structures, European civilization could only be determined by the criteria of culture, the special significance of which usually gives the underlying role of Christianity [10, p. 7]. In addition, the English historian underlines the role of Islam as a controversial factor in European integration. "The emergence of Islam has defined the boundaries of that new and compact entity, which was called the Christian world, – he writes. – This world was the stronghold that allowed Europe to self-determination" [10, p. 189]. Consequently, the historical lessons and realities of today lead to the conclusion that the need to preserve European identity puts on the agenda of current EU policy the task of changing the principles of the integration model. Challenges coming back to Europe by the Muslim world in the form of mass migration and radical terrorist groups, require the return of traditional Christian values not only to the consciousness of Europeans, but also to the rules of setting up a common European home.

Those who really care about the future of the European Union should remember the Jacques Delors's prophecy, which in 1992 declared that "if in the next twenty years we will not give our soul to Europe, taking into account its spirituality and meaning, then the game will be lost". According to K. Houston, during the decade of J. Delors's tenure as European Commission President (1985-1995), the involvement of religion played a more prominent role in strategic and affective considerations for further European integration [6]. The basic documents developed under his leadership allowed the European communities to transform into the European Union. So, Christian Democrats' ideas provided a powerful impetus to the process of creating the European Union.

Reflecting on the challenges and perspectives of the EU, Charles Taylor notes that no matter how anyone expresses their convictions and their position vis-à-vis the church, the roots of Europe are Christian, and there is no way to get rid of it. The scholar concludes that the first general point is

the obvious fact that religion has often been and continues to be an important component of many political identities. This is clearly visible, in some cases, when it acts as the most important marker recognized as insiders and outsiders. But religious identity also plays a different role – as the basis of general, ethical, constitutional principles [11, p. 20-22].

### 3. Human Rights and Christian Humanism

In the context of this study, particular attention should be paid to the fact that European humanistic values define the formation of the European law principles. In general, references to these values are contained in the Charter of the Council of Europe (1949), reaffirming the devotion to the spiritual and moral values which are the common heritage of their peoples and the true source of individual freedom, political liberty and the Rule of Law, principles which form the basis of all genuine democracy [12]. In the more elaborated form, the designated values were enshrined in the Maastricht Treaty (1997) and specified in the Lisbon Treaty (2007) on the European Union as follows: "The Union is based on the values of respect for human dignity, freedom, democracy, equality, the rule of law and respect for human rights, including the rights belonging to minorities. These values are common to the Member States in a society in which pluralism, non-discrimination, tolerance, justice, solidarity and equality between women and men prevail" [13]. A broad interpretation of the axiological foundations of the EU provides the Charter of Fundamental Freedoms of the European Union (2000): "Conscious of its spiritual and moral heritage, the Union is founded on the indivisible, universal values of human dignity, freedom, equality and solidarity; it is based on the principles of democracy and the rule of law. It places the individual at the heart of its activities, by establishing the citizenship of the Union and by creating an area of freedom, security and justice" [14].

The analysis of basic legal acts shows that European values are complex spiritual and moral formation based on the principles of humanism. But in order to preserve these principles from destruction, it is necessary to find their roots and strengthen it. Some scholars, and no such few, especially in Europe, argue that this is rooted in secularism. Speaking about the humanist foundations of human rights and freedoms, they oppose anthropocentric worldview to theocentric. Considering rationalism as the driving force of development, including the system of law, secularists consider religious

beliefs as obstacles to progress. They value the Rule of Law from the point of view of the existence of secular laws, and human rights in their understanding – is such a universal law, which is developed by people for people [15]. However, in our opinion, such an approach is superficial and does not reflect the depth of the valuable understanding of the concept of "human rights and freedoms".

And although, indeed, humanistic principles were first obtained by legal consolidation only at the end of the XVIII century, it is safe to assert that they were formed for centuries in the framework of Christian ethics. In this context, it is interesting to mention the statements of Alcide de Gasperi on the content of Christian heritage in European civilization: "When I say that Christianity stands at the origins of European civilization, I do not intend to pick up any exclusively confessional criterion for assessing our history. I point to a common European heritage only, to the moral that emphasizes human and his responsibilities" [16, p. 112]. There is no doubt that philanthropy is a distinctive feature of Christianity. In the Gospel, we find not only a clear commandment: "Love your neighbor as yourself" (Matt. 22:39), but also a more complicated cognitive model: "Love your enemies, bless those who curse you, who hate you, and pray for those who offend you and lead you, so that you may be the sons of your Father in heaven" (Matt. 5: 43-46). In a special way, Christian humanity and solidarity are expressed in the words of St. Paul: "… Does one member suffer, all members suffer from it? and when one member rejoices, all members rejoice with him" (Rom. 3: 37-38). All these are the laws of Christian life. This content of Christian ethics – charity, love and respect for the dignity of every human being as the creation of God – was the identifying marker of Europe and determined the further humanist orientation of European law for centuries.

The right to life is the basis of the human rights system. The secular statement in this regard is quite simple: the individual's right to life is conditioned only by the fact that he is a human. But it is noticeable that this formula lacks the evidence base. A more persuasive approach is that based on the Christian conception of man as God's creation. "Christians do not speak of human rights as 'natural rights', for this phrase suggests that human rights are merely self-evident characteristics of the natural order. – Robert Terer emphasizes. – Christians affirm that human beings have rights not because they are part of the natural order, but because they are loved by God" [17].

From the Christian faith in the creation of human like the image of God to participate in the fulfillment of the Divine plan of human and the world logically derived another basis for understanding the concept of human rights concept – the dignity of the human person. Human dignity is conditioned by the existential self, the desire to safeguard which gives impetus to the genesis of human rights. This concept is the key to all Christian denominations, because it is through it that its interpretation of the humanistic content of the Gospel finds its interpretation. "Therefore Christ, God and man, is the deepest source and guarantee for the dignity of the human person, – Baas de Gaay Fortman stresses. – The Christian Faith is seen as the deepest foundation of all human rights. It illustrates how Faith-based approaches to human rights may even lead to a complete synthesis of two missions that are separate in origin and principle" [18].

Christian axiology of human rights distinguishes the value of life from human dignity. Life is given by God, and dignity is acquired by human. The person becomes dignified by doing good. Principles of good are given in the biblical commandments. Hence, there are two types of freedom: internal freedom from evil and freedom of moral choice. Freedom from evil is invaluable. Freedom of choice is of value, and personality – dignity only when a person chooses the good. On the contrary, when an individual chooses evil, freedom of choice leads to self-destruction and harms the dignity of man and social morality. Consequently, immoral dignity does not occur, and therefore the separation of the concept of human rights and freedoms from morality means its continuous profanation. Thus, human rights can only be said if one or another doctrine recognizes human dignity as a result of free choice in favor of good before the temptation of evil. Contrary to the groundless accusations of anti-clericals, it is Christianity that carries such a primitive humanistic assertion, arguing that God not only created man, but also became a man in the image of the Savior, without dissolving man in Himself. In the words of Richard Neuhaus, Christians affirm that only a transcendent understanding of the dignity of the person will provide a foundation for a Christian doctrine of human rights [19].

As a subject of moral consciousness, which is radically different from the environment by being able to know God, human in his behavior must be guided by the orders of the moral law, which is the embodiment of Divine Providence. Accordingly, this law, which Immanuel Kant calls 'categorical imperative', has an unconditional and a priori nature, it is not conditioned

by external factors and forms the inner essence of human. The categorical imperative proclaims: "Act so that the maxim of your behavior could be at the same time the principle of general legislation" [20, p. 234]. In fact, this imperative is the philosophical formalized commandment of Christ, who proclaimed in the Sermon on the Mount: "All that you want that men do to you, then you also do them" (Matt. 7:12).

And here we are faced with the dilemma of freedom, which consists in the fact that the freedom of one person ends where the freedom of another begins, so it is impossible to live in society and to be free from it. "A human receives from God his essential dignity and, with it, the ability to exalted himself above any social order in search of truth and goodness, – Pope John Paul II noted. – However, it is due by the social structure in which he lives, also by the education and the environment" [21]. Freedom allows a person to succeed in ascending to spiritual perfection, but at the same time includes the danger of disobedience, the failure to subordinate to God, and through that – the fall, the tragic consequence of which is the existence of evil in the world. "All is allowed to me, but not everything is useful. Everything is allowed to me, but not everything is coming", – Apostle Paul proclaimed. – Let nobody seek his own, but each one [benefits] of another … for what would my will be judged by another's conscience?" (1 Corinth. 10: 23-24, 29). Freedom without responsibility and love leads in the end to the loss of freedom. Considering this dilemma, I. Kant relied on Christian postulates and emphasizes that duty is the highest form of moral behavior [20, p. 342].

The relationship between morality and law, which is reflected in the existential dilemma of the corelationship between human rights and freedoms, on the one hand, and duties and responsibilities, on the another hand, is a central theme in the debate that unfolds around the values of European law. "Such themes are found in current debates – crucial debates in which the requirement for truth and integrity (meaning) sometimes collides with the idea of liberty, – Zaki Laïdy asserts. – The Christian European movement has in effect not made up its mind whether to accept the idea that the invasive market principles can dispense with any form of transcendence. It shows a reluctance to accept that liberty might become the absolute that would be the basis for founding Europe to the detriment of a search for a certain truth" [22, p. 69].

The controversy around the concept of freedom in the Christian discourse on human rights is closely linked to the philosophical dilemma

'human and society'. "In the name of a universally defined 'human person' it is always possible to consider itself as exempt from any obligation to a particular community, – Alain de Benoit shows. – Absolute of humankind faces then with the absolute of individual person" [23]. At the same time, it is important to put attention to the fact that while the liberal philosophy of human rights finds its starting point precisely in a separate personality and in its individual choices, the Christian conception of human rights, formulates the human dignity as a priority of duties towards his neighbors in compare with their own rights. Analyzing the features of the Christian tradition, Lyudmila Ivanova argues that law thinking in Christianity does not begin where a person finds the presence or absence (limitation) of his/her own rights, but where he/she respects the rights of another person and is humbled before them, is humbled before his/her freedom, allows it to be different [24].

Current discourse on human rights and freedoms involves such pressing issues as abortion, euthanasia, biomedical reproductive technologies, same-sex marriages. It should be noted that Christian morality in such cases clearly requires the restriction of freedom in favor of responsibility. Alessandra Nucci notes that many Eastern European countries are facing increasing pressure from Western nations to abandon their traditional Christian values and religious heritage. The ethical issue that causes the most universal outrage, in both the East and the West, is the rampant financial corruption in political circles, an evil that no one questions. Instead, there are deep disagreements in the areas of 'life issues', the family, and education. There is no lack of examples of what the assault on traditional principles in these areas can look like in the West. The attacks are repeated and progressive. What we do know is that the people underwent a vicious and determined undermining of tradition, and particularly of the principles which, in recent years among Catholics, have come to be known as 'non-negotiable': life, the family, and education [25].

This is particularly marked in relation to the right to a family and freedom of marriage. Pope Francis I and Patriarch Kirill declare in their Joint statement: "We regret that other forms of cohabitation today are compared with a family based on marriage as an act of free and faithful love between man and woman, while the consecrated biblical tradition of the idea of paternity and motherhood as a special vocation of men and women married out of public consciousness" [26]. And in this connection,

it should be emphasized that the biblical notions of marriage were the basis of Article 16 of the Universal Declaration of Human Rights [27] and Article 10 of the International Covenant on Economic, Social and Cultural Rights [28]. "The intensity of the struggle can be judged by the fact that almost all the countries now sandwiched between a coercive new West and a coercive old East are dashing to lock the definition of marriage into their laws, – A. Nucci stresses. – More and more countries are taking action to include bans on same-sex marriage into their constitutions, including Belarus, Bulgaria, Finland, Hungary, Latvia, Lithuania, Moldavia, Montenegro, Poland, Serbia, Slovakia, and Ukraine. An amendment of this kind is currently pending before Parliament in Macedonia" [25]. Defending the Christian axiom of life as the sacred gift of God, the Church regards abortion and artificial insemination as a great sin. It is important to emphasize that the Christian interpretation of human rights insists on denying any nihilism. The Christian tradition stands for the right to life and against the 'right' to death, for the right to creation and against "right" to destruction, for the right to love and against same-sex marriages, for freedom of speech and against slander and insult.

The dilemma of freedom arises also in the process of assessing the principle of freedom of conscience and religion. From the standpoint of understanding the axiological essence of the concept of human rights and freedoms, it is important to emphasize that its approval at the initial stage is connected with the recognition of the right to freedom of religion within the framework of Christianity. But secularism in its radical form – anticlericalism, taking over the right to own the truth in the last instance, acts as a malicious violator of human rights and deploys democratic societies towards totalitarianism in the end. "The process of European integration, which began after centuries of bloody conflicts, has been perceived by many with hope as a pledge of peace and security, – Pope Francis I and Patriarch Kirill note. – At the same time, we warn against such integration that does not respect religious identity. In particular, we see that the transformation of some countries into secularized societies, alien to any memory of God and His truth, entails a serious danger to religious freedom. We are concerned about the current restrictions on the rights of Christians, not to mention their discrimination, when some political forces, guided by the ideology of secularism, which so often becomes aggressive, seeks to push them to the brink of social life" [26]. It should be defined that under this term secularism must

be understood as anticlericalism, because freedom of religion is not one and the same thing as freedom from religion.

The anticlerical model sooner or later degenerates into aggressive atheism, which undermines the spiritual foundations of society. The metastases of this destructive process are manifested in many EU countries, and it causes the Union's valuable crisis. A. Nucci disturbs that people in many European countries are embarrassed or afraid to talk about their religious affiliations. Holidays are abolished or even called something different; their essence is hidden away, as is their moral foundation. And people are aggressively trying to export this model all over the world. I am convinced that this opens a direct path to degradation and primitivism, resulting in a profound demographic and moral crisis [25]. So, the question arises: will the modern European concept of human rights develop towards developing principles that balance the various freedoms in society, or it will give privileges for certain groups to impose their understanding of human nature and human relations with others?

The aspiration to solve the dilemma of the relation of freedom and responsibility leads to the necessity of substantiating the cardinal virtue – justice. In this context, it is important to note that in the Christian tradition, the notion of freedom and responsibility necessarily correlates with the notion of justice. It should be stressed that justice is relational, so it is manifested through the relations between actors. "The human person does not have rights as an individual, but in relation to others in community and ultimately in relation to God. Thus, Christians affirm that human rights are derived from faith and involve duties to God and one's neighbor, – R. Traer emphasizes. – Human rights are not only derived from divine rights but also constitute duties toward others. Christians assert that because God loves all people, all people have rights and the corresponding duties to respect the rights of all others". [17]. The Christian demands of limiting individual freedom in favor of responsibility come from here. And so, human must again and again comprehend the difficult art of earthly human coexistence as a ministry, purpose, duty, including legal.

Expanding the content of the assessment of social relations, based on the criterion of justice, Thomas Aquinas pointed out that an act is 'just' or 'legal', if it is coordinated with another person by means of some equality [29]. So, the concept of equality logically comes from the category of justice. This notion of justice is a distinctive feature of European principles of

law that interpret justice in terms of social equality and economic solidarity. Christian tradition requires not only to build the economy on a moral basis, but also through its active service to man, following the teachings of Apostle Paul: "By working, we must support the weak and remember the words of the Lord Jesus, for He Himself said: "It is more blessed to give than brothers" (Acts 20:35). Solidarity and subsidiarity are fundamental principles of European law. Unfortunately, these principles are only declared, but not implemented in Ukraine.

Other fundamental principle of European law – non-discrimination – comes from moral values too. On this subject, the Christian tradition has a clear position. Christians believe that "God from the same blood has formed the whole human race for living all over the face of the earth (Acts 17:26) and that in Christ "there is no Jew or Greek, there is no slave, nor free, no man, nor woman because you are all one in Christ Jesus" (Gal. 3:28). This fruitful source has to continue to nourish the value content of the human rights concept that is the bar of European international and national legal systems. Thus, Christian values do not accept the so-called 'positive' discrimination that creeps up across Europe.

## 4. The Rule of Law and Justice

Europeans mean justice as mutual responsibility of a citizen ('responsible individualism') and of a state ('responsible sovereignty'). However, the correlation between the basic principle of human rights, on the one hand, and principle of state sovereignty, on the another hand, is very contradictory on practice. "Unquestionably then, the fellowship that human beings are called upon to establish is not just a matter of envisioning the others as free and equal creatures but also of doing justice and living together in peace, – B. G. Fortman states. – Naturally, the acceptance of that responsibility for protection of the human dignity of everyone requires more than just a legal basis, no matter what sorts of legal mechanisms for its realization may have been created. Indeed, the ratification of treaties, the establishment of international courts of human rights – access to which, and hence compliance, is entirely voluntary for states to enter into – and the development of human rights jurisprudence are not enough. The moral grounds for a conviction upon which responsible behaviour rests have to be constantly nurtured on the basis of a worldview shared by those concerned" [18]. And here the problem of the correlation between the Rule of Law and the institution of Legal State rises topically.

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The categories 'Rule of Law' and 'Legal State' are cornerstones of the modern European legal system, the corelationship between which has a dialectical character. Sergey Maksimov puts the attention on the internal contradiction of an ideal based on these categories. He shows that the emphasis of different ideological platforms on its various sides (enlightened absolutism sought full rationalization of social life, and liberalism through the idea of inalienable rights of the individual substantially restricted the scope of state intervention) created two different models of the Rule of Law, which are theoretically substantiated and practically applied. There are the so-called Gobbs model, or the formal concept of the Rule of Law, and the Lokk model, or the substantive concept of the Rule of Law. If the first model constrained the arbitrariness of power by the existence of laws binding on all persons and the same for all their application, then the second requires the certain quality of these laws – they must protect human rights. That is, restrictions are imposed not only on the executive and judicial branches of power, but also on legislative power [30, p. 31]. It should be noted that in the process of further development of philosophical and law thought, the first model was found in the German-continental concept of a Legal State (Rechtsstaat), where the law merges with the legal normes issued by this state in fact, and the second model was justified by the Anglo-Saxon concept of the Rule of Law in which law goes ahead of the state.

The collision between these models has not only the nature of scientific discussion, but also a dramatic historical manifestation. "All Christians agree that human rights laws are not authoritative merely because they are laws passed by the state. The Nazi regime is a vivid example of the injustice that can be done through the lawful edicts of a state. Moreover, the death of Jesus, though unjust, was lawful, – R. Traer notes. – The law is to be obeyed because it is right, not simply because it is the law. The standard for the law must be sought outside the law" [17]. So, the Rule of Law implies that the legal norm must be enforced because it is morally justified, and not simply because it is a law. Thus, the spiritual and moral origins determine the assertion of the Rule of Law over formal normative and legal acts of state authority.

However, the diligent pursuit for the benchmarks of secularism and positivism, which were put forward by liberal Rule of Law theories at the time of Enlightenment, led the philosophers to a standstill. After all, references to natural law and social contract as the primary sources can not be accepted

as logical arguments in favor of substantiation of the Rule of Law principle, because they send us to the same conventional roots, which, according to these theories, has the state. In this way, liberalism recognizes the right and the state to be equal in origin, and, therefore, the priority of law can not be considered proven.

In the idealistic-critical dimension the Rule of Law is an idea that encompasses a particular type of interaction between human and power and, in general, focuses on the fact that the authority must be limited by certain principles and norms, and could not go beyond these limits [30, p. 28]. Convincing arguments in favor of understanding the Rule of Law are found in Kantianism. I. Kant defined the state as an association of the "plurality of people subordinated to the legal laws" [20]. At the same time, the thinker distinguished the concept of 'law' and 'legacy'. Law as a social phenomenon is a cumulative product of individual ethos, which have a categorical imperative for a rod. Thus, the realization of the principle of the Rule of Law is due to the peculiar man's sense of justice, which should be understood as the subjective human perception of the supreme God's law. The legacy is a formal act of the state, which is intended to give the law the force of coercion. This content I. Kant put in the notion of Legal State, and in this sense, this concept is used as a criterion for membership in the European Union.

Thus, the Rule of Law means that state power must be limited by just law in its supreme Divine sense, in the sense that such spiritual values as good, truth, morality, conscience and justice were origin by God. Such perception of the Rule of Law is a born European social tradition, which, unfortunately corroded by anticlericalism. Thus, in the updated model of the Rule of Law, both responsible individualism and responsible sovereignty must be formed not only by legal levers, but also by the moral guidelines contained in the Gospel commandments. Spiritual responsibility is based not on fears of condemnation and sanctions, but on faith in God's law and His higher judgment, which alone guarantees both the inevitability of punishment and eternal grace. In F. Dostoyevsky's word warned by the lips of his hero: "If there is no God, then everything is allowed!" [31, p. 79].

It is important to emphasize that in the European democratic paradigm the concept of human rights was formed as a counterweight to the authoritarian state power. The separation of a certain spectrum of social relations from state intervention is the basis of civil society. Ideologies that deny the fundamental value of human dignity, at least in favor of something else,

'higher' (nation, state, social or professional group, party, sects, etc.) – are not legal because they are immoral. Supremacy above an 'image and likeness of God' can only be God who judges, punishes, but above all shows charity to human. Therefore, for the Christian ethics, the content of human rights and freedoms exceeds any political ideologies.

Such Rule of Law interpretation, which relies on justice, not on the legal norms, is inherent for the Ukrainian social tradition. It has been confirmed, in particular, by the Orange Revolution (2004-2005) and the Revolution of Dignity (2013-2014). It should be noted that, on the contrary, in Russia, historically prone to authoritarianism, public opinion does not perceive the tradition of the Rule of Law, but the tradition of a strong state. The diametrically opposite attitude to understanding the concept of human rights and freedoms is one of the reasons for the value conflict between Ukraine and Russia.

But this does not mean that Ukrainian authorities do not try to justify the violation of human rights by so-called political expediency, which is often camouflaged for national interest and security. Attempts by some officials to regulate the order of sending church sacraments, to determine the availability of apostolic succession to the churches, as well as to close their eyes to forcibly seizing the premises of religious communities, being justified by the will of a some passionate minorities, are examples of the impolite atavism of the Bolshevik practice of violating human rights and freedoms. The principle of conscience's freedom, constituting the state's non-interference with private spiritual life, at the same time implies the individual responsibility for choosing his own path to God (in relation to children, such responsibility is borne by the parents). Collisions that have re-emerged in this area and stirred up public opinion in European countries, especially in Ukraine, raised the question: will the modern concept of Rule of Law develop in the direction to balance the different freedoms in society, or it will grant privileges for nationalistic authorities or marginal minorities to impose the understanding of human rights? The developing of European law principles on the basis of Christian moral values will answer this question and help to cope with the new challenges faced by Europe.

## 5. Conclusions

This study confirmed that Christianity is a marker of European civilizational identity and the spiritual core of its integration. Christian ethics

fills the constituent acts of the EU with moral content. By ignoring the Christian "spirit of laws", the existing secular multicultural project of the EU has created ambivalent and controversial feelings about the establishment of European identity and the implementation of the European legal norms into the humanitarian sphere. Because the principles of European law are fed from the source of Christian humanism, having as a moral basis such values as the right to life, human dignity, freedom, equality and solidarity. The Christian spirit lies in the constituent documents and the main legal acts of the EU and the Council of Europe, even if they declare freedom of religion. Thus, it can be considered proven that the Christian values constitutes the axiological basis of European law. But in recent years these basic values have begun to erupt in Europe. It means that the soil leaves the underlying foundation of the European law system. Losing support, the entire building of the European Union began to shake. In order to relieve tension in society and revive the attractive energy of the legal system, first of all, the Lisbon Treaty as a small constitution of the EU, it is necessary to return the axiological basis – the Christian values – to its legal area. The theological and philosophical concepts of Thomism and Kantianism, substantiating the fundamental values of natural law, justice, equality, human dignity, freedom and responsibility, laid the foundation for the understanding of human rights as objective inalienable entities. This concept of human rights is a cornerstone of European legal system. Justice, as a human's reflection of the supreme God's law, serves as a criterion for the Rule of Law in Europe. Consequently, the principles of the Rule of Law, confessing freedom of conscience and establishing secularism as separation of the Church from the state, should not neglect Christian moral norms. These norms, even in a secularized Europe, must remain a powerful factor regulating social relations, especially in such sensitive areas as family, the birth and education of children, and the care for those in need. The aspiration for the revival of Christian values should cease to be a speculative slogan of nationalists and right-wing conservatives, and have to become a daily law-making mission of European authorities. Under the conditions of democracy, the embodiment of Christian priorities in the legal system does not repel others to the marginal periphery, but, on the contrary, consolidate society. Using the positive experience of combining the principles of European law and Christian values will contribute to the improvement of Ukrainian legal system.

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