In the Romanian system of law, the supremacy of the Constitution and laws was elevated to rank of constitutional principle, enshrined by Article 1 paragraph (5) of the Basic Law, according to which “observance of the Constitution, of its supremacy, and the laws shall be obligatory in Romania.” It was thus established a general obligation imposed on all subjects of law, including the legislative authority, which must make sure that legislative work is done within the limits and in accordance with the Basic Law of the country and, in the same time, must ensure the quality of legislation. This because, in order to respect the law, the law must be known and understood and to be understood it must be sufficiently precise and foreseeable as to provide legal certainty to its recipients. In this regard, in conjunction with the general principle of legality, provided by the said constitutional text, another principle took shape, that of legal certainty. Without being expressly enshrined by the constitutional rules,
being rather a creation of the jurisprudence, it is equally a fundamental principle of the rule of law, which is considered largely based on the quality of its laws.¹

The concern for assuring legal certainty is of paramount importance in Romania, in terms of quantitative growth of the law, due to the increasing complexity of law, following the development of new sources of law, especially the Community and international law, as well as the evolution of society, the emergence of new areas of legislation. It is clear that at present, we deal with a lot of enactment, but the question is – are the laws enacted properly? In other words, is the quality of law ensured in the broadest sense in the activity of regulation in the meaning of compliance thereof with the principles of the rule of law and legal certainty?² The jurisprudence of the Constitutional Court and the case–law of the European Court of Human Rights, dealing in the recent years with the increasing frequency of claims concerning the requirements of accessibility and foreseeability of law, may be an answer to this question and also a signal of further action to remedy deficiencies affecting ever more deeply the Romanian legal system and hence the existence of the rule of law. That is why we consider useful the presentation of the main requirements of the principle of legal certainty, accompanied by examples of recent case–law, particularly of the Constitutional Court.


² «The expression “in accordance with the law” does not refer only to domestic law, but also to the quality of the “law”, requiring it to be compatible with the rule of law, which is expressly mentioned in the preamble to the Convention» The European Court of Human Rights, Case Rotaru v. Romania, 2000, Beatrice Ramașcanu, ECHR case–law in the cases versus Romania, Hamangiu Publishing House, 2008, p. 108.
Coordinates of the principle of legal certainty

With a very complex structure, the principle of legal certainty expresses, in essence, the fact that citizens must be protected “against a threat that comes just from the law, against an insecurity created by law or which the law risks to create”\(^3\). This principle was established and has been continuously enriched in the European law both at Community common level, as well as in matters of protection of human rights.

Thus, the Court of Justice of the European Communities held that the principle of legal certainty is part of Community law and should be respected by the Community institutions and Member States when they exercise their powers conferred by EU Directives.\(^4\)

Also, the European Court of Human Rights stressed in its jurisprudence, for example in the case *Marcks v. Belgium, 1979* the importance of the principle of legal certainty, considered to be necessarily inherent both to Convention law and Community law.\(^5\) We mention that in the case–law of the European Court of Human Rights, this principle is enshrined explicitly in relation to one of the fundamental rights covered by the Convention for the Protection of Human Rights and Fundamental Freedoms, namely the right to a fair trial. In numerous cases against Romania, for example in the case *Brumărescu v. Romania*\(^6\), the court held that one of the basic elements of the rule of law is the


\(^6\) Official Gazette no. 414 of August 31\(^{st}\) 2000.
principle of certainty of legal relationships, which requires, among other things, that the final solution pronounced by the courts not be put in question again. Without neglecting the importance of this dimension of the principle of legal certainty, which concerns the stability of legal situations and relationships sanctioned by judicial decision, for reasons of space allocated to this study, but also considering the main objective proposed in its elaboration, we shall focus on the dimension of the same principle that concerns the activity of elaboration, amendment, repealing, correlation and systematization of normative acts. Under this latter point, the principle of legal certainty includes mainly the following requirements: non-retroactivity of the law, accessibility and foreseeability of the law, assurance of the unitary interpretation of the law.

- **Non-retroactivity of the law**

  Established by the French Civil Code of 1804, the principle of non-retroactivity of the law was originally taken by the Romanian legislature in the Civil Code, respectively, in the Criminal Code. In consideration of its importance for the rule of law, this principle has been elevated to constitutional rank, being enshrined under Article 15 paragraph (2) of 1991 Romanian Constitution. As a result of the reception of the case-law of the European Court of Human Rights, the initial text

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was enriched in the revision of the Constitution, so that, at present, it has the following wording: “The law shall only take effect for the future, except the more favourable law which lays down penal or administrative sanctions”. As noted by the Constitutional Court in one of its decisions⁸, “the consequences of enshrining the non-retroactivity principle in the Constitution are very serious and probably, that is why, this solution is not met in many countries, but, in the same time, the elevation at the rank of constitutional principle is justified by the fact that it ensures, in better conditions, legal certainty and public confidence in the system of law, as well as by the fact that it prevents the disregard of the separation of the legislative power, on one hand and the judiciary or the executive, on the other, thereby helping to the strengthening of the rule of law”.

Due to its constitutional enshrining this principle has become mandatory not only for the judge who applies the law but also for the legislator, which is equally held to observe it within the legislative process, the non-retroactivity of the law being a fundamental guarantee of constitutional rights, in particular, as outlined⁹, of the freedom and security of a person. Professor Mihai Eliescu, showed in this respect, suggestively, that¹⁰ “if what was done in accordance with the applicable law could be continually broken by the new law, any foresight in time would be impossible and the law itself could be threatened as it would be undermined the confidence in the certainty of rights, in the stability of the civil circuit.... If the new law would not respect what was done in the old Law, the trust would disappear and with it, would be breached the

⁹ Constitution of Romania – Comment on articles, coordinators I. Muraru, E. S. Tănăsescu, Ch Beck Publishing House, Bucharest, 2008, p. 139.
authority of the law, because the will to obey permissions, commandments and legal opinions would be, of course, largely demobilized, if one submitting to them weren’t sure that by doing so he will be placed under the shield of the law.”

The Constitutional Court, in exercising its powers under the Constitution and its law of organization and functioning\(^{11}\), condemned on numerous occasions\(^{12}\), by ascertaining the unconstitutionality of the legal provisions on which it had been referred, the breach of the principle of non–retroactivity of law, also contributing to its definition. Thus, for example, underlying the fact that this principle applies to the Basic Law of the country itself, the Court held\(^{13}\) that “to decide that by its provisions on the regulation of property, the existing Constitution would abolish or modify the previous legal situation, existing as a consequence of certain pre-constitutional acts, which resulted in transfer of State owned assets, would amount to infringing the constitutional principle of non–retroactivity of law.” The Court also declared\(^{14}\) that a law is not retroactive when it amends for the future a rule of law previously born or suppresses the future effects of a legal situation created under the sway of the old law, because in these cases the new law does nothing than to refuse the


\(^{13}\) Decision no. 159/1999, Official Gazette no. 52 of February 2\(^{nd}\) 2000.

survival of the old law and regulate the mode of action during the period following its entry into force, i.e. in its own field of application. But then when a new law changes the previous legal status on certain relationships, all the effects likely to occur in the previous relationship, if made before the entry into force of the new law, can not be amended following the adoption of new regulations, which must respect the sovereignty of the previous law.15

- Accessibility and foreseeability of law

The accessibility of law concerns, mainly, public disclosure of it, which is achieved through the publication of normative acts. In order that an existing law have legal effect it must be known by its recipients; effects of the law occur, therefore, after bringing it to public attention and after its entry into force. In domestic law, the rules on entry into force of legal acts are provided for by Article 78 of the Constitution16, and Article 11 of Law no. 24/2000 on the rules of legislative technique for elaboration of normative acts17. This occurs, according to the category to which the legislative act concerned belongs to, on the day of publication in the Official Gazette of Romania or at a later instant, either expressly established by the constitutional rule, or even in the content of the normative act concerned. It is contrary to the principle of legal certainty, respectively to the provisions of Article 15 paragraph (2) and Article 78 of the Constitution, for a law to provide in its text, as concerns its entry into force, an earlier day than the day of publication in the Official Gazette of Romania. In this regard the

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16 “The law shall be published in the Official Gazette of Romania; it shall take effect on the third day after the date of publication or at a later instant as is specified therein.”

Constitutional Court ruled, for example, by Decisions no. 7/2002\textsuperscript{18} and no. 568/2005\textsuperscript{19}. Similarly, the Court of Justice has consistently held that, in general, the principle of legal certainty precludes an EU measure to take effect before its publication.\textsuperscript{20}

There is also another significance of the concept of accessibility, associated with the requirement of foreseeability of the law, namely that concerning the way in which the social body receives the content of normative acts, in the meaning of understanding thereof. The legal rule must be intelligible, whereas the recipients should not only be informed in advance about the consequences of their acts and deeds, but also understand the legal consequences. Otherwise, the principle \textit{nemo censetur ignorare legem} could no longer be applied, which would have serious consequences for the security of social relations and for the existence of society in general.

In its rich case–law, the European Court of Human Rights stressed the importance of ensuring accessibility and foreseeability of law, establishing a set of benchmarks which the legislator must consider in order to ensure these requirements. Thus in cases such as \textit{Sunday Times v. the United Kingdom of Great Britain and Northern Ireland}, 1979, \textit{Rekvényi v. Hungary} 1999, \textit{Rotaru v. Romania}, 2000, \textit{Damman v. Switzerland}, 2005, the European Court of Human Rights stated that “a norm cannot be regarded as a «law» unless it is formulated with sufficient precision to enable the citizen to regulate his conduct. He must be able to foresee the consequences which a given action may entail”; “a rule is foreseeable if it is formulated with sufficient precision to enable any individual – if need be with appropriate

\begin{footnotesize}
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\item \textsuperscript{18} Official Gazette no. 220 of April 2\textsuperscript{nd} 2002.
\item \textsuperscript{19} Official Gazette no. 1060 of November 26\textsuperscript{th} 2005.
\item \textsuperscript{20} Case C 368/89, Crispoltoni , Collection 1991, p I–3695, par.17, Cosmin Flavius Costaş, cited work.
\end{itemize}
\end{footnotesize}
advice – to regulate his conduct”; “especially, a rule is foreseeable when it affords adequate protection against arbitrary interference by public authorities”. Under this aspect, the principle of legal certainty is correlated with another principle, developed in Community law, namely the principle of legitimate expectations. According to the case-law of the Court of Justice of the European Communities (e.g. because the case Facini Dori v. Recre, 1994\(^{21}\), Foto–Frost v. Hauptzollamt Lübeck.Ost, 1987\(^{22}\)), the principle of legitimate expectations requires that laws be clear and foreseeable, consistent and coherent; \(^{23}\) likewise, it requires the limitation of the possibilities of amendment of legal norms, the stability of rules imposed by these.

Also the doctrine stated, in the same meaning, that the first of the conditions to ensure applicability of a law is its sufficient determination\(^ {24}\), which aims to ensure rigor both in terms of conceptualization of law, of the legal concepts and in terms of drafting of normative acts. As noted, “the elaboration of laws is not only an art but is also a science or more precisely a technique and, moreover, a difficult technique.”\(^ {25}\) The rigors of law–making find expression in the rules of legislative technique, which must be observed by the Romanian legislator in drafting any legislation\(^ {26}\). Thus, Law no. 24/2000 provides thus a set

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\(^{22}\) Case 314/85, _idem_, p. 248.

\(^{23}\) See also TC Hartley, _The foundations of European Community law_, Oxford University Press, 2007, p. 146 and the following.


\(^{26}\) Article 3 of Law no. 24/2000.
of rules, respectively “the legislative text should be made clear, fluent and understandable, without syntactic difficulties and obscure or ambiguous passages. [Article 7 paragraph (4)]; “within the proposed legislative solutions should be made an explicit configuration of concepts and notions used in the new regulations, which have a different meaning than common, in order to ensure in this way their correct understanding and to avoid misinterpretation” [Article 24]; “ the normative acts must be written in a specific legal and regulatory style and language, concise, sober, clear and precise, to exclude any doubt [Article 34 paragraph (1)].”

In considering the same objective, concerning the quality of legislation, the mentioned legislative act requires substantiation of legislative solutions for a greater stability and efficiency of laws, establishes rules for the harmonious integration of draft legal acts in all legislation, regulation uniqueness, duplication avoidance, as well as concerning the amendment, supplementation, repealing and other legislative events.

The lack of accessibility and foreseeability of legal provisions is becoming more frequently invoked also before the Constitutional Court, which adjudicated, in a series of cases, on the infringement of these requirements. Thus, within the a priori review, by Decision no. 453/2008\(^\text{27}\), ascertaining the unconstitutionality of the Law for the amendment of Law no. 115/1996 on statement and auditing of property of dignitaries, magistrates, civil servants and persons with leading positions, the Court held that the legislative changes proposed by the legislator are vague and inadequate, since it used the term “unjustifiable differences”, which scope can not be determined. Therefore, the Court found that “if by the criticized law are regulated excessive measures, poorly developed, sometimes impossible, but with a clear

\(^{27}\) Official Gazette no. 374 of May 16th 2008.
unconstitutional effect, it is necessary to remove them”. Similarly, by Decision no. 710/2009\textsuperscript{28}, Court, referring specifically to the case–law of the European Court of Human Rights on the requirements of accessibility and foreseeability of legal rules, the Court ascertained the unconstitutionality of the Law amending and supplementing Law no. 188/1999 on the status of civil servants holding, among others: “the law subject to review, due to the poor drafting, does not meet the requirements of legislative technique specific to legal rules.” As concerns the \textit{a posteriori} review, we mention Decision no. 189/2006\textsuperscript{29}, by which the Court found that provisions of the Administrative Contentious Law no. 554/2004\textsuperscript{30}, according to which the time limit for the initiation of the avenue of appeal against a court ruling is calculated \textquote{as from pronunciation or as from communication\textquote{ are unconstitutional because of their lack of precision. The Court held in this regard that \textquote{the parties do not have a secure landmark of the period in which they can appeal the decision rendered by the administrative court in first instance, which makes their access to justice via the exercise of the appeal under law uncertain, therefore limited.”

In many other cases the Court rejected as inadmissible the objection of unconstitutionality raised, holding that, under the guise of criticism concerning the ambiguity and vagueness of the law texts, their interpretation is required, issue that exceeds the jurisdiction of the Constitutional Court. The existence of problems of interpretation and application of law is inherent in any system of law, because inevitably, legal rules have a certain degree of generality. As noted also by the European Court of Human Rights, for example in the case \textit{Dragotoniu and

\textsuperscript{28} Official Gazette no. 358 of May 28\textsuperscript{th} 2009.

\textsuperscript{29} Official Gazette no. 307 of April 5\textsuperscript{th} 2006.

\textsuperscript{30} Official Gazette no. 1154 of December 7\textsuperscript{th} 2004.
Militaru-Pidhorni v. Romania, 2007⁴¹, “because of the principle of generalities of laws, their content can not provide an absolute accuracy. One type of regulatory technique is to use broad categories rather than exhaustive lists. Likewise, many laws use the effectiveness of more or less vague formulas, to avoid excessive rigidity and to adapt to changing situation. Interpretation and application of such texts depends on practice. The decisional function entrusted to courts serves precisely to remove the doubts that might exist in the interpretation of rules, taking into account the evolution of the daily practice, provided that the result is consistent with the substance of the offence and clearly foreseeable”. The scope of the concept of foreseeability depends to a large extent on the content of that text, the area covered, and the number and quality of its recipients. “Such consequences need not be foreseen with absolute certainty. Such certainty (absolute), however desirable, is impossible and, moreover, can lead to excessive rigidity of the rules”.

The abovementioned lead to another requirement of the principle of legal certainty, which concerns the interpretation of the law because, if the element of interpretation of laws is inevitable, the principle of legal certainty requires also in this respect certain limits and rigors.

- **Ensuring the unitary interpretation of the law**

Even if, apparently, this element of legal certainty brings to the fore the role of courts, in fact, the requirement still concerns the legislative activity, because of how the normative acts are regulated, correlated, systemized, depends the unity of their interpretation. After entry into force of a normative act, upon which elaboration have been allegedly followed all the rules of legislative technique to which we have referred,
during its existence can occur different legal events, such as amendment, supplementation, repealing, republishing, suspension or other like these, in each of the cases the legislature being the one that must ensure the clarity and consistency of regulation and the harmonious integration thereof in the legal system, in order to eliminate at the most the possible differences of interpretation.

The existence of such profound differences of interpretation in the Romanian system of law was established by the European Court of Human Rights in many cases, with the consequent conviction of the Romanian State. Thus, in the case Păduraru v. Romania, 2005\(^{32}\), the Court held that “the absence of a mechanism which ensures consistency in the practice of the national courts, such profound and long-standing differences in approach in the case-law, concerning a matter of considerable importance to society, are such as to create continual uncertainty and to reduce the public's confidence in the judicial system, which is one of the essential components of a State based on the rule of law.” Recently, in the case Viașu v. Romania, 2008, the same Court, referring to a series of other cases against Romania (Străin and others, Păduraru, Porțeanu, Radu), again found a lack of consistency and foreseeability of the Romanian legislation, the matter examined being that concerning the property retrocession. The Court held on that occasion that the organizational difficulties of the competent authorities in the implementation of measures regarding the restitution of property [therefore the problems caused by law enforcement] are the result of repeated changes through legislation of the retrocession mechanism, noting that these changes “have created a climate of legal uncertainty. This uncertainty has been denounced by various Romanian courts that have tried, without success, to eliminate the “ambiguity of

\(^{32}\) Official Gazette no. 514 of June 14\(^{th}\) 2006.
uncertain legal situations”. Noting, in the same case, the existence of
dozens of decisions leading to the ascertainment of the breach of Article 1
of the Additional Protocol No.1 to the Convention, as well as of over one
hundred similar applications pending before the Court, the European Court
of Human Rights has described the problem which resulted in legal
uncertainty as having “systemic character”, being generated by a “flaw “ in
domestic law and a “failure of the Romanian legislation”.

Also the recent jurisprudence of the Constitutional Court provides a
striking example of how, due to lack of correlation of regulatory acts,
were created problems of interpretation of the law, with consequences in
terms of legal certainty. Thus, on the docket of the Constitutional Court
has been registered a significant number of cases – thousands, having as
subject matter the object of objection of unconstitutionality of Article 298
paragraph 2 last dash of the Labour Code, cases in which was invoked, in
essence, a question of interpretation of the law, generated by the
coexistence of Law no. 168/199933 concerning the settlement of labour
disputes and of Law no. 53/200334, the Labour Code, the general law in
this matter, but which came into force after the special law mentioned,
and, by the provisions under Article 298 paragraph 2 last dash it repealed
“any contrary provision”. As courts jurisdiction in matters of labour law is
regulated differently by the two abovementioned normative acts, and as
between these measures there is the general law-special law relationship,
with the scope of the principles of interpretation specific to this
relationship, before the courts was raised the problem of interpretation of
the provisions under Article 298 paragraph 2 last dash of the Labour
Code, with consequences in terms of determining the jurisdiction of the
courts – either under the special law or general law (to the extent that the

33 Official Gazette no. 582 of November 29th 1999.
34 Official Gazette no. 72 of February 5th 2003.
latter is construed to repeal existing special law). The Constitutional Court rejected as inadmissible the objection of unconstitutionality\textsuperscript{35} holding, in substance, that the issues subject to review are not of its competence, whereas they deal with matters of interpretation and enforcement of the law, respectively of law-making procedure.

Even if there is a solution in the domestic law as concerns the settlement of any inconsistencies in the jurisprudence determined by the different interpretation and application of the same legal text, such situations are likely to profoundly affect the citizen’s confidence in the legal certainty provided by the State, by the rules laid down. In addition, the lack of coherence and systematization of legislation may lead to the violation of another fundamental principle of the rule of law, that of separation of powers. Thus, faced with the problems mentioned, the courts must find solutions, because, under Article 3 of the Civil Code, “\textit{A judge who refuses to adjudicate, on the pretext that the law is silent, obscure or defective, may be prosecuted on a charge of denial of justice.}” Sometimes however, the effort of substitution of legislative gaps or imperfections can lead to an excess of jurisdiction of the courts. The Constitutional Court held, in one of the aforementioned decisions\textsuperscript{36} that, because of the lack of clarity of the challenged text “the judge is bound to establish by himself, by case–law, outside the law, or substituting himself to the legislature, the rules necessary to decide on the appeal on which settlement he was invested, thus breaching the provisions of Article 1 paragraph (4) of the Constitution, concerning the separation of

\textsuperscript{35} For example, by Decision no. 1005/2009, Official Gazette no. 575 of August 18\textsuperscript{th} 2009.

\textsuperscript{36} Official Gazette no. 461 of July 3\textsuperscript{rd} 2009.
powers.”

Somehow adjacent to the subject, but with a view to illustrate the application of the same constitutional principle, we invoke also Decision 1325/2008, by which the Court upheld the objection of unconstitutionality of Government Ordinance no. 137/2000 on the prevention and punishment of all forms of discrimination, finding that the impugned provisions are unconstitutional “insofar as the meaning grasped is that the courts have the power to cancel or refuse the application of normative acts with power of law, considering that they are discriminatory, and to replace them with rules established by judicial decisions or provisions contained in other regulations.” Therefore, the court may interpret a legal norm, but it can not replace the legislature; if it does so, it violates the separation of powers, which may create a constitutional legal conflict.

Relatively recently, the Constitutional Court ascertained such a conflict between the judiciary, on one hand, and the Parliament of

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37 In his work – “Legal Fictions” All Beck Publishing House, Bucharest, 2005, p. 290), Professor John Deleanu, referring to provisions of Article 3 of the Civil Code, points out the following: “Does this represent a «dispense» for a normative legal activity? We believe that the answer can only be negative: for the court to conclude that the law is obscure or incomplete it should «interpret» it – a clear and precise law doesn’t need to be interpreted, but simply applied – but the interpretation of the law does not mean its formulation, but, if necessary, the clarifying, adapting, refining or extrapolation of its provisions to make it applicable to the circumstances of the case."


39 We can not accept the interpretation according to which when the court completes the “voluntary” or intra legem legislative gaps, can be presumed the intention of the legislature to give courts a kind of “delegation of powers”, because “legislative delegation” can not be presumed, it must be explicit and rigorously determined. However, no rule of law suggests the idea of “legislative delegation” to the court, the only exception being the delegation in favor of Government. (John Deleanu, cited work, p. 290).
Romania and the Romanian Government, on the other hand, determined by the High Court of Cassation and Justice pronunciation on certain legal appeals in the interest of law based the non-unitary practice of courts on granting of wage rights. We believe that at the origin of the legal situation ascertained by the Court is in fact the scarce manner of regulation and drafting of laws on salary rights of judges, prosecutors, magistrates and other specialized staff, caused by successive changes, which did not correspond to the requirements of Legislative drafting specific to legal rules, which led to the intervention of courts, and finally, of the High Court of Cassation and Justice, through a series of rulings highly disputed. By Decision no. 838/2009⁴⁰, rendered on that occasion, the Constitutional Court held that compliance with the rules of legislative technique is an obligation enforceable against the legislator, primary or delegate. The step taken by the High Court of Cassation and Justice to correct, by means of the appeal in the interest of the law, legislative technique or constitutional flaws affecting the procedure of repeal of certain laws, and to re-enforce acts which application had ceased, has been assessed by Court as inconsistent with constitutional rules. The Court held that “such a legal operation can only be carried out by the legislative (Parliament or Government, as appropriate), the sole power to dispose on the solutions to be taken in this matter.” Thus, “in the exercise of its power prescribed by Article 126 paragraph (3) of the Constitution, the High Court of Cassation and Justice is obliged to ensure the unitary interpretation and application of the law by all courts, respecting the fundamental principle of separation and balance of powers […]. The High Court of Cassation and Justice does not have the

constitutional power to establish, amend or repeal the legal rules laid down by law or to carry out their constitutional review”.

Conclusions

The importance of the principle of legal certainty for the existence of the rule of law requires more attention to the quality of law. Therefore, even if the exponential increase in the number of laws and their complexity can be justified by factors such as historical, sociological, political, economic, an effort to discipline and obedience excess regulatory rules on legal certainty is required. It is an effort that concerns the legislator—primary or delegated, and that involves diagnosing problems, identifying appropriate remedies in the sense of organization of the legislative activity through its rigorous foundation on the principles of legislative technique and increasing accessibility and foreseeability of legal rules. Let’s recall that “[…] the style of laws should be simple … When the style of the laws is inflated, they are regarded only as a work of ostentation…The laws must not be subtle; they are made for people of middling understanding. When exceptions, restrictions, modifications, are not necessary in a law, it is much better not to put them there. Such details hurl one into new details. No alteration should be made in a law without sufficient reason. Care should be taken that the laws be worded in such a manner as not to be contrary to the very nature of things [...]”.

Finally it is worth stressing the need to increase the role of the Legislative Council which, under Article 79 of the Constitution, “is a specialized consultative organ of Parliament that gives advice on draft normative acts with a view to the systematic unification and coordination of

41 Montesquieu, Spirit of the laws, in Philippe Malaurie, Anthology of legal thinking, Humanitas Publishing House, p. 120.
the whole body of laws.” Doctrinal studies\textsuperscript{42} reveal that, at present, a series of laws are rarely subject to Council endorsement (amendments proposed in committee or plenary session of Parliament, Bills or legislative proposals received by committees after adoption thereof by the Chambers of Parliament) and others are not subject to endorsement (administrative orders, instructions and other acts issued by heads of ministries, central public administration bodies and autonomous administrative authorities, which are issued under and in enforcement of laws, decisions and ordinances of the Government, draft laws for approval or rejection of ordinances). However, this represents a risk in providing the unitary character of the law\textsuperscript{43}, and in this respect also the Constitutional Court stressed the importance of involving the mentioned authority in the legislative activity. For example, in a case within the \textit{a priori}\textsuperscript{44} constitutional review, noting that an opinion from the Legislative Council concerns the legislative proposal on certain measures for the organization of public administration and that the bill adopted by the Senate has a different wording as compared with the one initially endorsed by the Council, the Court held that “in this case, the court must see if it weren’t the case that for the amendments made in committee be called the standpoint of the Legislative Council, taking into account the constitutional support of Article 79 paragraph (1) of the Basic Law and that in Article 99 paragraph (7) of Regulations of the Chamber of Deputies.”

Given the abovementioned and the jurisprudence to which we referred, we find appropriate, \textit{mutatis mutandis}, as a conclusion, to invoke a

\textsuperscript{42} Constitution of Romania – comment on articles, work cited., page 738.

\textsuperscript{43} Ioan Vida, Formal Legistics, cited work, page 234.

\textsuperscript{44} Decision no. 710/2009 on the Law for the amendment and supplementation of Law no. 188/1999 concerning the Statute of Public Servants.
recommendation of the French State Council\textsuperscript{45}, determined by the finding concerning the aggravation of the problem of legal certainty in the French law: “legislate less, legislate better”\textsuperscript{46}.


\textsuperscript{46} “Légiférons moins, légiférons mieux”.