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Michał Mariański
Uniwersytet Warmińsko-Mazurski w Olsztynie
ORCID: 0000-0001-6212-914X
michal.marianski@uwm.edu.pl

The potential role of soft law rules and the French concept of regulations with the force of law (ordonnance) in achieving sustainable development goals

Introduction

The latest global challenges related to the pandemic and resulting from the war in Ukraine have underlined the need for some unobvious instruments that would help to introduce new legal regulations much faster than before. That is why in this paper the author would like to check if the thesis related to the interconnection between the financial market, sustainable development and soft-law rules may be proved also by the potential broader use of soft-law regulations and the French concept of ordinances – understood as regulations with the force of law. These two ways of imposing some legal frameworks are examples of legal instruments and techniques that could help in the realization of goals of sustainable development and ensure legal stability.

The author, to achieve the goals of this paper, makes use of the functional approach of the comparative legal method, the historical-descriptive and the dogmatic method, with a special focus on French and international law regulations. The comparative method, as a science of comparing selected aspects of different legal systems, can help to understand some issues in a much broader context. This method is especially useful concerning processes like sustainable development, which have a cross-border and very often supranational nature.

The challenges related to the pandemic and resulting from the war in Ukraine underlined much more than before the need to ensure state security, which is related also to the concept of legal certainty[1]. This legal security end

[1] See more: M. Krzykowski, M. Mariański, *Brak zapewnienia pewności prawnej jako przesłanka roszczeń odszkodowawczych. Analiza prawno-porównawcza*, „Studia Prawno-Ekonomiczne" 2018, Vol. 109, p. 73 and next.

certainty can be also achieved by implementing the idea of sustainable development as a basis for a stable and crisis-resistant financial system in a long-term perspective.

In this article, the sustainable development rules are understood by the author as all regulations leading to take into consideration the environmental aspect and especially ESG criteria (environmental-social-governance)[2] of a given action.

The present publication contains two aspects that can strengthen and help to introduce faster than before the sustainable development rules. The first aspect and possible solution are related to the French concept of ordinances that have a force of law, and the second aspect and possible solution are related to known financial market soft-law rules.

As a justification for the choice of French law as a comparative aspect of the analysis, the author would like to underline that in the past, the Polish legal system was often modelled on French law, mainly in the field of civil regulations and capital market regulations[3]. The French legal system is also a quite specific regulatory system, marked by an original catalogue of sources of law, within which the very important role of the courts in the process of creating and applying the law deserves attention. The ordonnance mentioned in the title of the article is an action taken by the government in matters normally within the domain of the law. It comes under the delegated legislative procedure (Fr. *procédure législative déléguée*). In the current framework of the French Fifth Republic, the government can only issue ordonnances if it has been empowered to do so by Parliament, following Art. 38 of the Constitution, or authorized by the Constitution in the case of certain provisions relating to overseas (Article 74-1). Assimilated to regulations, ordinances come into force as soon as they are published. However, they do not take on legislative value until they have been ratified by Parliament within a set period.

The second aspect of the analysis is related to the interconnection between the financial market and sustainable finance where the soft-law rules play a very important role and may be an interesting instrument that could help to introduce more obligations related to investments based on social responsibility. Even today we can observe that the implementation of sustainable development regulations on the financial market is based not only on EU legal acts like regulation of 27 November 2019[4], but very often on soft-law rules. This is because the EU regulations and directives have often a general aspect,

[2] D. Dziawgo, *Zrównoważone finanse jako nowy model dla inwestycji finansowych*, „Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu" 2019, No. 63, p. 24 and next.

[3] M. Mariański, *Problematyka regulacji rynku finansowego w ujęciu transgranicznym. Analiza na przykładzie prawa polskiego i prawa francuskiego*, Olsztyn 2020, p. 14.

[4] The Disclosure Regulation (EU 2019/2088) in conjunction with the Taxonomy Regulation (EU 2020/852) define new standards for dealing with sustainability risks, negative sustainability impacts, advertising social and ecological aspects, as well as sustainable investments.

and that is why soft law has become the basic instrument of legal influence. Regardless of their location in the EU system – soft law rules, understood as formally non-binding resolutions, guidelines, positions, opinions, recommendations or books have become an instrument of quick regulatory action[5]. It should be underlined, that soft law rules do not only interpret the provisions contained in directives and regulations, but also supplement and specify their provisions, limit the scope of their application, and even precede the development of new legally binding standards or take the form of their justification[6]. That is why the authorities forming the system of supervision over the financial market in the EU, in the form of the European Banking Authority (EBA), the European Securities and Markets Authority (ESMA) and the European Insurance and Occupational Pensions Supervisory Authority (EIOPA) have developed another form of non-hard law regulations that are called regulatory technical standards (RTS)[7]. The increased importance of soft-law rules is also a result of the crisis from 2008, and now the pandemic and war in Ukraine are the events that underlined the need for a new approach to institutional regulation of the financial market[8]. The example of regulatory evolution in the financial market is also related to the fact, that this specific legal environment, was the place where very early the traditional method of regulation began to be questioned[9].

The concept of regulations with the force of law in France

As it was already mentioned France has one of the most specific regulatory systems in the European Union, characterized by an original catalogue of sources of law, that makes it very close to the principles of the common law system.

The ordonnance mentioned in the title of the article is an action taken by the government in matters normally within the domain of the law. It comes under the delegated legislative procedure (Fr. *procédure législative déléguée*). In the current framework of the French Fifth Republic, the government can

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[5] A. Nadolska, *Soft law w regulacji rynku finansowego w Polsce. Rekomendacje, wytyczne i lista ostrzeżeń publicznych KNF*, Warsaw 2021, p. 7.

[6] Ibidem.

[7] P. Izdebski, *Akty prawa miękkiego jako współczesny instrument nadzoru nad rynkiem finansowym – rola oraz charakter prawny. Część 1*, „Przegląd Prawa Publicznego" 2021, No. 3, p. 78 and next.

[8] M. Mariański, op. cit., p. 267.

[9] D. Szostek, *Is the traditional method of regulation (the legislative act) sufficient to regulate artificial intelligence, or should it also be regulated by an algorithmic code?*, „Białostockie Studia Prawnicze" 2021, No. 26(3), p. 44 and next.

only issue ordonnances if it has been empowered to do so by Parliament, following Art. 38 of the Constitution, or authorized by the Constitution in the case of certain provisions relating to overseas (Article 74-1).

The basis for the concept of ordinances is given by Art. 38 of the French Constitution from 1958, which states that the Government may, for the execution of its program, ask Parliament for authorization to take by ordinance, for a limited period, measures which are normally within the domain of the law. Ordinances are taken by the Council of Ministers after consultation with the *Conseil d'État*[10]. They enter into force as soon as they are published, and they can only be ratified expressly[11].

The first use of the technique of ordinances based on Art. 58 of the French Constitution was related to the law from 1960 that allowed the Government to take measures to maintain order in Algeria. Also, when we analyze the statistics and the number of ordinances per year, it seems that this legal technique is becoming more and more popular. For example, according to French doctrine, from 1960 to 1990, 158 ordinances were issued based on Article 38. Then from 1990 to 2001, 104 ordinances were published. Since 2000, the annual number of ordonnances has risen and 130 of these types of legal acts have been published in 5 years, with a record number in 2004 of 52 ordonnances published. What is interesting, is that for the first time in 2004, the number of ordinances is greater than the number of ordinary laws (as it presented more than 55% of these texts in the field of law)[12]. It is also underlined that in the XX century, about 70% of ordinances were related to the amendments of the law outside the continental part of France[13].

The technique of ordonnances was also used with success during the pandemic period, where during only 2020 about eighty types of such a legal act were published to take urgent measures to respond to the health crisis, in many heterogeneous subjects.

What is important, is that the French law also defines the provisions that cannot be subject to the procedure of ordonnances. This was clarified by the French Constitutional Court, in its decision of 26 June 2003[14] where he confirmed that are therefore excluded from the scope of ordinances, the provisions

[10] The author is not going to translate the name of this institution, but instead to precise that this is the equivalent of highest administrative court in the French legal system – see more: A. Klimaszewska, M. Mariański, K. Warylewska, J. Zięty, S*półka z ograniczoną odpowiedzialnością (société à responsabilité limitée) we francuskim kodeksie handlowym*, Olsztyn 2017, p. 42 and next.

[11] Les ordonnances sont prises en Conseil des Ministres après avis du Conseil d'État. Elles entrent en vigueur dès leur publication mais deviennent caduques si le projet de loi de ratification n'est pas déposé devant le Parlement avant la date fixée par la loi d'habilitation. Elles ne peuvent être ratifiées que de manière expresse.

[12] M. Guillaume, *Les ordonnances: tuer ou sauver la loi?*, „Pouvoirs" 2005, No. 114, p. 117 and next.

[13] Ibidem, p. 121 and next.

[14] Décision n° 2003-473 DC du 26 juin 2003.

that must appear in a form of organic law (that specifies the constitution), a finance law (which sets the resources and expenses of the State) or a social security financing law. In addition, the French Constitutional Court confirmed in several decisions from 2020[15], that the provisions contained in the ordinance must be considered as legislative provisions and can thus be the subject of a constitutional review. The author would like to underline, that the role of *Conseil Constitutionnel* in the French legal system is very important, namely due to the fact, that the Constitution of 1958 devoted an entire separate Title VII, i.e. Articles 56 to 63, to the institution of the Constitutional Tribunal. This court, according to Art. 56 it consists of nine members, appointed for a nine-year term that is not renewable[16]. Also, in addition to the nine basic members, former presidents are automatically and for life members of this Court. The main tasks of this body also include ensuring the correct conduct of the presidential election and the announcement of its results (Art. 58), deciding on the correctness of the elections of deputies and senators (Art. 59) as well as announcing the results and supervising the correctness of referenda (Art. 60). The basis for the control of the legal acts, including ordinances, is given in Art. 61 of the French Constitution[17].

However, there is a small controversy in the regulation of ordinances, related to the provisions of the president concerning this type of act. Namely, Article 13 of the constitution providing that "the President of the Republic signs the ordinances", has possible different interpretations. It is not obvious if the President is required to sign the ordinances or can decide to pronounce his veto and refuse to sign them. This type of question arose in 1986 when President François Mitterrand refused to sign three ordonnance from the Chirac government[18].

It is also worth noting that French law distinguishes several types of ordinances, apart from the type mentioned in Art. 38 of the Constitution. Namely, in Articles 47 and 47-1, it is stated that the Government may implement by ordinance a finance bill act (Fr. *loi de finances*)[19] or a social security financing

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[15] Décision n° 2020-843 QPC du 28 mai 2020, Décision n° 2020-851/852 QPC du 3 juillet 2020.

[16] The composition of the Tribunal is updated in one-third every three years, where the right to appoint is vested in equal parts in the President, the Speaker of the French Diet and the Speaker of the French Senate. Thus, each of the above entities nominate three judges of the Conseil constitutionnel.

[17] M. Popławski, B. Pahl, M. Mariański, *Wpływ francuskiego Trybunału Konstytucyjnego (Conseil constitutionnel) na krajowy system podatkowy. Analiza na przykładzie podatku od bardzo wysokich dochodów (taxe sur les très hauts revenus)*, „Przegląd Prawa Konstytucyjnego" 2023, No. 5.

[18] P. De Montalivet, *La ratification des ordonnances (L'article 38 de la Constitution)*, LPA 2000, No. 254, p. 59 and next; M.-C. De Montecler, *Ordonnances: duel ou duo au palais royal?*, „AJDA" 2020, No. 25, p. 1384.

[19] S. Bożyk, *Konstytucyjne podstawy procedury budżetowej w wybranych państwach członkowskich Unii Europejskiej*, [in:] A. Piszcz, M. Olszak, M. Etel (eds.), *Państwo, gospodarka,*

bill, if Parliament has not ruled quickly enough on the one of these texts (in less than 70 days in the first case, in less than 50 days in the second). Another existing type of ordinances is the one that was created based on Art 74-1 of the constitution and related to the decentralization act from 2003, where the Government was authorized to use ordinances to extend metropolitan laws to overseas communities[20]. We should also underline, that till the reform from 1995, there was another type of ordonnance in the former Art. 92 of the French Constitution, which allowed the government, within four months of the promulgation of the 1958 Constitution, to take by ordinance the measures necessary for the establishment of new institutions and allowing the necessary adjustments to the life of the nation, the protection of citizens and safeguarding freedoms.

The potential use of the ordinances technique in implementing the sustainable development rules today may be also related to the fact that this legal technique has well developed historical roots both in France[21] but also in other countries, like in Poland[22].

The importance of soft law rules on the financial market

Cross-border and supranational nature are not only the characteristics of sustainable development but also the main indicators of the modern financial market. The specificity of financial market regulations was distinguished in Western Europe in the second part of the XX century[23], while in Poland mostly after the economic transformation in 1989[24]. The financial market has always been a place where different innovations appeared first and a place where innovations and new solutions were financed. This shows the interaction between financial market and sustainable development rules, as the ESG crite-

prawo. Księga dedykowana profesorowi Cezaremu Kosikowskiemu z okazji jubileuszu pracy naukowej na Wydziale Prawa Uniwersytetu w Białymstoku, Białystok 2015, p. 307.

[20] Article 74-1: Dans les collectivités d'outre-mer visées à l'article 74 et en Nouvelle-Calédonie, le Gouvernement peut, dans les matières qui demeurent de la compétence de l'État, étendre par ordonnances, avec les adaptations nécessaires, les dispositions de nature législative en vigueur en métropole, sous réserve que la loi n'ait pas expressément exclu, pour les dispositions en cause, le recours à cette procédure.

[21] The ordinances procedure may be considered as the heritage of the practice of the decree-laws (Fr. *décrets-lois*) of the Third and Fourth Republics and takes up the principle of the exclusive legislative authority of the kings of France under the Ancien Régime.

[22] A. Bień-Kacała, A. Tarnowska, *Rozporządzenia z mocą ustawy – modele, teoria i praktyka w polskim systemie parlamentarno-gabinetowym w latach 1921–1926 oraz po 1989 r.*, „Krakowskie Studia z Historii Państwa i Prawa" 2021, Vol. 14(4), pp. 544–545.

[23] H. Causse, *Droit bancaire et financier*, Paris 2015, p. 23.

[24] C. Kosikowski, M. Olszak, *Od prawa bankowego do prawa rynku finansowego*, [in:] J. Głuchowski (ed.), *System prawa finansowego. Prawo walutowe. Prawo dewizowe. Prawo rynku finansowego*, Warsaw 2010, p. 195 and next.

ria are a cost for different entities that need a financial priority to be implemented. One of the mechanisms developed by financial market law and capable of strengthening the possible application and development of principles of sustainable finance is soft-law regulation.

Soft law regulatory solutions have a significant and real impact on securing the protection of fair competition in the financial market. Behind this type of regulation, we can find recommendations, interpretations, and guidelines coming both from participants of the market activities as well as from the market supervisory authorities. Given the above, it should be underlined that the area of soft law regulation on the market is not only a significant supplement to the traditional sources of law but also supports, through established practice, the creation of new normative solutions[25].

In the doctrine, we can also find the opinions that new regulatory standards on the financial market that are based on soft law were very quickly adopted by Financial Supervision Authorities, both at the national and European levels. Soft law rules can serve indirectly to all the entities being present on the market, and especially can very quickly protect the customer at the EU and national levels by detailing the traditional hard law regulations. The soft-law rule is also a significant part of corporate governance, internal banking instruments and regulations minimizing the risk for the client on the market. They have also a very important protective function, which is expressed primarily in the fact that that at the EU level, the guidelines create a minimum standard of procedures defining the relationship between the consumer and the financial institution[26]. This process is also followed by the development and frequent use of regulatory technical standards (RTS) by all the authorities forming the system of supervision over the financial market in the EU (European Banking Authority, European Securities and Markets Authority and the European Insurance and Occupational Pensions Supervisory Authority).

It the other hand we have to admit, that global financial crisis (especially the one from 2008) has revolutionized the way of creating, understanding and applying financial market law in the EU and individual Member States, resulting in the adoption of a new regulatory paradigm based on the interdependence of "hard" and "soft" law[27]. Jus cogens, jus dispositovum and soft law interact and influence each other in order to create the financial market law that would be a crisis resistant system, having both traditional part of basic regulations and new type of regulations complementing them. The author

[25] G. Sęga, *Soft law jako instrumentarium zabezpieczające ochronę uczciwej konkurencji na rynku kapitałowym – zagadnienia wybrane,* „Internetowy Kwartalnik Antymonopolowy i Regulacyjny" 2021, No. 1(10), p. 113.

[26] M. Fedorowicz, *Znaczenie soft law EBA dla określania normatywnego standardu ochrony konsumenta na rynku finansowym*, „Internetowy Kwartalnik Antymonopolowy i Regulacyjny" 2021, No. 7(10), p. 30.

[27] A. Nadolska, op. cit., p. 9.

supports the thesis that today the philosophy of financial market law, and in consequence the philosophy of applying sustainable development regulations in this area, cannot be limited to the analysis of the normative text, because what actually determines its application, and effectiveness largely stems from non-binding acts. The consequence is the statement that regulating the financial market is primarily based on soft law, because the concept of regulation is inextricably linked to the need to perceive fast interventions on the market to the need of the irregularities correction in the way of functioning of this market[28].

In the doctrine of the financial market law, the status of recommendations and other examples of this type of regulation was already discussed, and often related to the fast transfer of official information to the participants of this specific regulatory environment[29]. It's also worth noting, that the legislator has always been very modest in defining the concepts and institutions that were present in the financial market, and in consequence, creating a place for soft-law rules[30]. These instruments that have a diverse structure and type (green books, white papers, programs, communications, recommendations, opinions, guidelines, interpretations, notifications or declarations) are therefore complementary to the EU framework regulations and very often constitute an additional instrument of integration and harmonization in the financial market[31]. The above-mentioned non-legislative instruments can also accelerate the adoption of some new regulations or new practices on the market, which is why they may have a potentially important role in the introduction of sustainable development regulations.

In the literature, we can also find a very common distinction between soft-law regulations into two main groups, based on the entities that issue them. The first group is related to the acts introduced by entities within the so-called self-regulation and with the active participation of market users. Therefore, they often take the form of so-called market practices in a given sector and are in fact a form of standardization or restrictions facilitating the functioning, imposed by entities operating on the market. Their undoubted feature is repeatability, regularity and cyclicality, which means that even before their formalization, they are considered as a common practice. This types of common practice may involve the requirement of a certain positive action or in the other hand an obligation to abstain from certain ac-

[28] Ibidem, p. 10.

[29] T. Czech, *Charakter prawny rekomendacji Komisji Nadzoru Finansowego*, „Przegląd Prawa Publicznego" 2009, No. 11, pp. 74–75.

[30] See more: Z. Ofiarski, *Rola soft law w regulacji rynku finansowego na przykładzie rekomendacji i wytycznych Komisji Nadzoru Finansowego*, [in:] A. Jurkowska-Zeidler, M. Olszak (eds.), *Prawo rynku finansowego. Doktryna, instytucje, praktyka*, Warsaw 2016, p. 137 and next.

[31] D. Wojtczak, *Soft law i mechanizmy nielegislacyjne jako instrumenty integracji rynku usług bankowych Unii Europejskiej*, „Monitor Prawa Bankowego" 2012, No. 1, p. 58 and next.

tivities[32]. The second group of soft-law acts is related to the acts issued by the supervision authorities, that very often precise about how a given authority is going to execute the provisions of traditional legal regulations[33]. This second group is an additional tool for efficient market control and a tool for providing information to market participants in a simplified form.

The strength of soft-law regulations is also related to the fact that they are not entirely detached from the classic legal basis, because they are issued concerning the classic legal basis (e.g. an act or article) to which they refer. Their goal is to influence financial market participants in a not entirely authoritative way and, as a consequence, to increase the level of legal security and protection of entities operating in this market. As emphasized in the doctrine, the use of such a form of regulation leads to the quick achievement of specific standards of behaviour without the need for excessive interference by the legislator through traditional, but requiring a much more extensive and long procedure, acts of statutory rank[34].

Conclusion

The application of sustainable development rules to achieve its goals needs a variety of different legal instruments. The latest global challenges related to the pandemic and war in Ukraine have shown that the traditional lawmaking process may be not enough due to the time needed to adapt classical legal acts. That is why, in a globalized world, there is a need to introduce new legal techniques that will require less time to be issued and that could be more proactive[35].

In the present article, the author describes two legal techniques and instruments that may play a crucial role in the effectiveness of the application of sustainable development rules. One of them is a French concept of ordinances that have a force of law, and the second one is known from the financial market soft-law rules. What is important, in the author's opinion, is that these two legal techniques can be considered as instruments that can be used simultaneously. Both described instruments have the potential to shorten the legal reaction on a given crisis and have the potential to increase the effectiveness of legal protection. In the French doctrine is it also underlined that the fast and effective regulation, based on the ordonnance and resulting from the Art. 38

[32] P. Wajda, *Przyjęte praktyki rynkowe – status prawny*, „Monitor Prawa Bankowego" 2014, No. 7–8, p. 138 and next.

[33] Z. Ofiarski, op. cit., p. 141.

[34] Ibidem, p. 160.

[35] Ch. Voegtlin, A.G. Scherer, *Responsible innovation and the innovation of responsibility: governing sustainable development in a globalized world*, „Journal of Business Ethics" 2017, Vol. 143, p. 227 and next.

of the French Constitution, results in a widening of the field of intervention of the autonomous regulatory power[36]. As for the soft-law rules, the doctrine also states that this type of regulation often turns out to be as effective as the standard of hard law and tends to acquire binding force due to the will of the parties or to the usual practice[37].

To sum up, if we would like to effectively introduce sustainable development rules both from an international and national perspective, we have to dispose of a broad scope of regulatory intervention tools. The recent geopolitical situation has even shown an urgent need for such tools, that may be used primarily to adapt the sustainable development rules and secondly to be a part of the general regulatory techniques. Two of the possible techniques that were described in this article, have in the author's opinion, the potential to become a very important factor in the implementation of the sustainable development regulations shortly.

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[36] L. Baghestani, *Les ordonnances de l'article 38 de la Constitution de 1958*, [in:] L. Baghestani (ed.), *Fiches de droit constitutionnel. Rappels de cours et exercices corrigés*, Paris 2020, p. 201.

[37] J. Chrostek, *Nabieranie mocy wiążącej przez „soft-law"*, „Zeszyty Prawnicze" 2022, Vol. 22(4), p. 205.

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Summary

The potential role of soft law rules and the French concept of regulations with the force of law (ordonnance) in achieving sustainable development goals

Keywords: French law, financial market, sustainable finance, soft law, ordonnance, ESG criteria.

The purpose of the article is to present the interconnection between the financial market, sustainable development and soft-law rules in today's economy we have an overlapping process in the financial markets between general investment based on financial efficiency and investment concerning social responsibility – including ESG criteria (environmental-social-governance). The concept of sustainable development may be defined as a tool leading not only to economic growth but in the long term also as a solution leading to the elimination of the disproportions and instabilities within a society. The COVID pandemic and the war in Ukraine showed, that today we require some new legal instruments and techniques that could help in the realization of goals of sustainable development and that would ensure legal stability. The methodology used by the author is related to the functional approach of the comparative legal method, the historical-descriptive and the dogmatic method, with a special focus on French and international law regulations. Comparative method is both a science, a research method and the effects of research obtained from the application of the comparative studies. Comparative studies, as a science of comparing selected aspects of different legal systems, is aimed at learning and understanding law in a much broader context, because at the supranational level. It is this aspect that makes comparative research extremely important for sustainable development rules, which are often characterized by a cross-border and international character. The scientific aim of the work is to show whether and how soft important law provisions especially in the financial market, as well as regulations with the force of law, can be a useful instrument supporting the process of building sustainable finance. As part of the conclusions, the author notes that the use of the described legal structures may contribute to faster and more effective implementation of sustainable development regulations. The above is even more important when these regulations appear from a supranational perspective rather than from a national perspective.

Streszczenie

Potencjalna rola regulacji *soft-law* i francuskiej koncepcji rozporządzeń z mocą ustawy (*ordonnances*) w osiąganiu celów zrównoważonego rozwoju

Słowa kluczowe: prawo francuskie, rynek finansowy, zrównoważone finanse, miękkie prawo, rozporządzenie, kryteria ESG.

Celem artykułu jest przedstawienie powiązań między rynkiem finansowym, zrównoważonym rozwojem i regulacjami *soft-law* miękkiego prawa, z uwagi na fakt, że we współczesnej gospodarce mamy do czynienia z przenikaniem się na rynkach finansowych procesów związanych z inwestycjami ogólnymi opartymi na efektywności finansowej i inwestycjami uwzględniającymi odpowiedzialność społeczną – w tym kryteriów ESG (zarządzanie środowiskiem-społecznym). Pojęcie zrównoważonego rozwoju można zdefiniować jako narzędzie prowadzące nie tylko do wzrostu gospodarczego, ale w dłuższej perspektywie także jako rozwiązanie prowadzące do eliminacji dysproporcji i niestabilności wewnątrz społeczeństwa. Pandemia COVID-19 i wojna w Ukrainie pokazały, że dziś potrzebne są nowe instrumenty i techniki prawne, które pomogą w realizacji celów zrównoważonego rozwoju i zapewnią stabilność prawną.

Metodologia zastosowana przez autora związana jest z podejściem funkcjonalnym metod porównawczej, historyczno-opisowej i dogmatycznej, ze szczególnym uwzględnieniem regulacji prawa francuskiego i międzynarodowego. Metoda porównawcza, jest zarówno nauką, metodą badawczą, jak i efektami badań uzyskanymi dzięki zastosowaniu badań porównawczych. Studia porównawcze, jako nauka porównująca wybrane aspekty różnych systemów prawnych, mają na celu poznanie i zrozumienie prawa w znacznie szerszym kontekście, bo na poziomie ponadnarodowym. To właśnie ten aspekt sprawia, że badania porównawcze są niezwykle istotne dla zasad zrównoważonego rozwoju, które często charakteryzują się aspektem transgranicznym i międzynarodowym.

Celem naukowym pracy jest wskazanie, czy i w jaki sposób przepisy prawa miękkiego, które mają istotne znaczenie szczególnie na rynku finansowym, a także czy rozporządzenia z mocą ustaw mogą być użytecznym instrumentem wspierającym proces budowania zrównoważonych finansów. W ramach wniosków autor zauważa, że wykorzystanie opisywanych konstrukcji prawnych może przyczynić się do szybszego i skuteczniejszego wdrażania regulacji zrównoważonego rozwoju. Powyższe ma tym większe znaczenie, im bardziej regulacje te pojawiają się w perspektywie ponadnarodowej niż w perspektywie krajowej.