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In search of the concepts of the European Union research

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Summary

In search of the starting points of the title concept one can focus on the EU law as a broadly viewed basis encompassing the accession of the states to the European Union, thus their membership. In this context the following important question may be asked, i.e. where we obtain the knowledge of the European Union. Referring to the juridical correlation in place, we would then say that the answer lies in the respective treaty of the primary law of the EU. It goes without saying that this answer is not subject to doubt. However, the answer itself does not prove comprehensive when we differentiate the foundation of the European Union, then the formal membership, and its development affiliation. Generally speaking, the first two areas legitimise the above presented 'from where' in a different way from the way it is subject to legitimisation in the third area. The particle gains in importance as we still tend to (ultimately) explain the development of the European Union through the European legislation. One can apply this approach, yet one should also bear in mind that such action proves, above all, one-sided. The action primarily proves anti-developmental as it finds itself unable to shed light on the EU in the numerous aspects of its functioning.

For the reasons given above, the main thesis of the paper is that, in the methodological ways of examining the thought, the European Union should be subject to examination through the EU as a community, i.e. the EU within the EU. To help exemplify the reasoning, I applied the familiar *inter*, which is broadly applied in the methodologies of science. I ascribe the generation of new concepts to it, the ones that allow to examine the complex structures of the EU, and through the examination it is hoped to coin new postulates that concern the steering of the EU as a way of practice. Undoubtedly, the *inter* is reconstructed on grounds of the up-to-date knowledge of itself. Only then do we conceptualise it, and arising out of this conceptualisation, we would reconstruct the postulates aimed at the EU, yet not in the narrow-juridical categories as the EU law does not exhibit a separately differentiated theory.

Keywords: European Union, methodology, public policy, political science, science, social studies

W poszukiwaniu koncepcji badań Unii Europejskiej

Streszczenie

Poszukując punktu wyjścia dla tytułowej koncepcji, można koncentrować się na prawie Unii Europejskiej jako szeroko postrzeganej podstawie, obejmującej akcesję państw UE, a zatem ich członkostwo. W tym kontekście można postawić następujące istotne pytanie: Skąd możemy otrzymać wiedzę o Unii Europejskiej? Odnosząc się do prawnej korelacji w tym zakresie, możemy powiedzieć, że odpowiedź na nie leży w odpowiednim traktacie pierwotnego prawa Unii Europejskiej. Jest oczywiste, że ta odpowiedź nie jest przedmiotem wątpliwości. Jednakże sama odpowiedź nie okazuje się całościowa, kiedy zróżnicujemy fundamenty Unii Europejskiej wobec formalnego członkostwa i rozwoju przynależności. Ogólnie mówiąc, pierwsze dwa obszary legitymizują przedstawione powyżej pytanie, dotyczące „skąd”, w odmienny sposób w stosunku do sposobu, w jaki jest legitymizowane w trzecim obszarze. Część zyskuje na znaczeniu wraz z tym, jak skłaniamy się, aby (ostatecznie) wyjaśnić rozwój Unii Europejskiej przez europejską legislację. Można zastosować to podejście, ale należy brać pod uwagę, że takie działanie okazuje się, przede wszystkim, jednowymiarowe. Działanie, zasadniczo, okazuje się antyrozwojowe, jako że uznaje się je za niezdolne do rzucenia światła na Unię Europejską w wielu aspektach jej funkcjonowania.

Z powyższych powodów główna teza tekstu głosi, że metodologiczne sposoby badania Unii Europejskiej powinny być oparte na odwołaniu się do badania Unii jako wspólnoty, Unia w ramach Unii. Aby pomóc zilustrować to rozumowanie, stosuję znane *inter*, które jest szeroko stosowane w metodologiach nauk. Przypisuję mu generację nowych koncepcji, te, które pozwalają na badanie złożonych struktur UE, i przez badanie powstaje nadzieja na ukucie nowych postulatów dotyczących kierowania Unią jako praktyką.

Niewątpliwie *inter* jest zrekonstruowany na podstawie nowoczesnej wiedzy jako takiej. Tylko wówczas konceptualizujemy ją i wychodzimy od tej konceptualizacji, rekonstruujemy postulaty skierowane do UE, już nie w wąskich, prawniczych kategoriach, jako że prawo UE nie przedstawia odrębnie zróżnicowanej teorii.

Słowa kluczowe: Unia Europejska, metodologia, polityka publiczna, politologia, wiedza, badania społeczne

I will embark upon the theses that appear the simplest:

1. Where do we derive the knowledge of the European Union given the fact that we know the date of its foundation thus we also know the roots of its development – these, however, being subject to distinct definitions as well as distinct concepts and terms not to mention the time and spatial relativism. The understanding of the establishment of the EU as an act under the primary sources of the EU law and,

to some extent, the understanding of the beginning of its development – viewed separately, appears important when I aim to extract the knowledge of the roots and then state whether I still hold the knowledge gained at its conception and respectively enlarged yet this not being indicative of an in-depth knowledge. What about the knowledge gained at the development moment given the fact that we do not know or we cannot decide whether the developing facts of the empirical nature or the cognitive processes conducive to the intellectual spirit of the EU should be taken into account?

2. Does it hold true that alongside the ‘from’ particle we should develop both the EU sources notwithstanding whether just the formal ones or not and the ways of obtaining knowledge leading to e.g. a separate field of science?
3. What needs to be addressed, obviously within the EU framework, is the issue of the knowledge obtained at its roots and the determination of the source in relation to the knowledge obtained from the EU itself on grounds of the conceptualising of the EU, which would indicate that there has been a shift from the respective treaty to the EU itself that is then perceived as a field of conceptual achievements.
4. In other words, do the sources represent a substantially different scale of cognitive determination? Still, the treaty is substantially tangible whereas the other one is omnipotent and not within the framework of the EU alone.
5. Eventually, doesn’t it hold true that the knowledge, the knowledge of this international organisation, is in fact the knowledge obtained or primarily obtained, which would indicate that it is not reconstructed? Then, assuming that it is created, even on the basis that the creation cannot be consequently disregarded, are we in a position to differentiate something new, in a methodological sense, as well as to exhibit the capability and alongside the crafted ability to develop this knowledge?

Such theses have not been formulated, yet. To tell the truth, they have been addressed yet only by a more in-depth than up to now interpretation¹ of the literature and a more in-depth interpretation of the EU law² as well as, above all, a critical research

¹ The following work is worth paying attention to: J. Zielonka, *Europa jako imperium. Nowe spojrzenie na Unię Europejską*, A. i J. Maziarscy (trans.), Warszawa 2007, passim; as well as the quoted literature therein. My concept does not stand in connection with the work thus the reference to it will not be overly quoted in my paper. See also: P. Machnikowski, *Zasady europejskiego prawa umów a przepisy kodeksu cywilnego o zawarciu umowy*, „Transformacje Prawa Prywatnego” 2008, No. 5, passim; M. Jabłoński, *Polskie referendum akcesyjne*, „Acta Universitatis Wratislaviensis” 2007, No. 2965, passim; S. Kaźmierczyk, *Próba typologii stosunków prawa międzynarodowego do prawa wewnętrznego*, „Acta Universitatis Wratislaviensis” 1992, No. 1313, passim.

² See: J. Helios, *Pojmowanie wykładni prawa europejskiego w orzecznictwie Trybunału Sprawiedliwości*, Wrocław 2002, passim., especially Chapter I therein, *Prawo materialne a prawo procesowe w kontekście relacji pomiędzy Unią Europejską a państwami członkowskimi*, „Zeszyty Naukowe PWSZ w Legnicy” 2009,

approach. Without the attempts to reformulate the EU literature, and consequently, the EU thinking, and beforehand, the assumptions, the above presented theses would not be formulated. They can (as I believe) represent a good starting point to create out of the existing knowledge such a level at which one can advocate utterances pertaining to the EU of at least the second degree. The statements, I believe, that would address the issue of presenting a viewpoint on e.g. the EU crisis or the building of a model of the EU crisis. The suppositions appear to be bold, yet it is worth noting that the prime reason for them is the search of the level as a methodologically pivotal construct and not the empiricism of the facts observed alone and the perception of this observation as an effect of exploring the EU. In particular, it aims to identify potential reference points reconstructed as levels, yet not in the meaning of the ultimate research effects but as the ones that constitute the points from which if one commences, in the process of the reconstruction of the commencement, then going e.g. advancing in the internal world of the EU to the upper levels of its exemplification. It does not come to represent a play about the EU in a methodological way. It is because the EU comes to represent a heavily complex body that in empirical terms has been viewed as more complicated up till now than when perceived in its complexities, i.e. in the reconstruction of the possible problems into problematic situations³.

The theses that have been put forward appear to also represent what could be called their research as well as design dimension. It seems that under certain assumptions they can represent a type of monographic thinking. In contrast to it, now, task-oriented thinking is prevalent, whose relative standpoint pertaining to the EU is not yet that easy. As it is not easy, either, to address the issues in terms of the link between the two types of thinking. Besides, there are no elaborations, which would address the issue of the links from the standpoint of, say, the assessment of the current literature review devoted to the EU. Even though we tend to diminish the task-oriented papers, yet this does not prove effective as the reiteration of the links, especially their assumptions, would likely result in ascribing importance to the task-oriented papers. Above all, the pending issue appears to be the differentiation of the EU literature not only on the basis of the presented ways of thinking. I believe the literature urges, at its foundation, at least reformulation. We do not appear to know how it would be

No. 5, passim; T.C. Hartley, *The Foundations of the European Community Law, An Introduction to the Constitutional and Administrative Law of the European Community*, Oxford 2003, passim.

³ J. Oniszczyk, *Filozofia i teoria prawa*, Warszawa 2008, p. 1070; T. Pietrzykowski, *Ujarzmianie Lewiatana. Szkice z idei rządów prawa*, Katowice 2014, Chapter I.; W. Załuski, *Ewolucyjna filozofia prawa*, Warszawa-Kraków 2009, p. 100 and next; R. Tokarczyk, *Filozofia prawa*, Lublin 2000, p. 30 and next; J. Zajadło, *Filozofia prawa międzynarodowego?*, „Państwo i Prawo” 2007, Vol. 2, passim. The basic premise is based upon the work of B. Wolniewicz, *Ontologia sytuacji. Podstawy i zastosowania*, Warszawa 1985, p. 15 and next.

feasible on cognitive grounds to effectively address the task-oriented issues. They, which is easy to state, aim to meet the need, but, in an ultimate consequence, the need from the standpoint of the EU for its development or (in fact) for addressing a particular case that is time- and context-specific, which would easily be a non-EU case. It is clear that these issues are getting complex as even incidental cases, though these being EU cases, can be so merely due to the ambiguity of monographic thinking within the EU. The absence of the premise leading to the development of this way of thinking makes the task-type remarks, by definition, shallow.

So task-oriented does not necessarily mean that they are minor in the assessment of the importance of the papers in the EU development. Thus the pending question seems to be whether the current state of the EU is such that it makes, at its foundation, task-based papers legitimate or not. And if it does not, they are, in reality, incidental papers or even merely incidental papers. In my view, the remarks pertaining to the literature, can bear research significance as the EU law, though omnipotent, does not have the capacity to address every EU issue in greater detail. Beyond law, which would likely cover all aspects pending, there are undoubtedly EU issues yet these being subject to conceptualisation without the interference of law – at least directly. Here I mean all aspects of the area of community, which at its foundations remains, above all, open to the union being convinced that the union and community are not synonymous even though we tend to create a legal category out of the union.

The travail pertaining to the literature and EU law can also result from the fact that the dominant language within the EU is the first degree language. The nature of this language partially involves the marginalising and the negligence of community, engaging it in legal legitimisation proceedings. The EU, from the cognitive standpoint, does not have much room for manoeuvre. Yet, it does have distinct areas which are, by definition (nature), subject to juridical activity. However, these should not be applied within the whole EU, and, above all, should not be subject to the expounding through the EU alone. And there are also the areas that must be such, even if created as a result of their community character, that are not subject to juridical activity or the areas that neglect juridical activity for rational reasons. Typically, as this is the simplest example to give, we address the area covering the EU culture, which we, however, prefer to refer to as the European culture even though in reality we do not know, yet, how to define it in the context of the European culture. If this was feasible to define, and we would cease to interchangeably use the two terms, then our European contexts of the EU would come to be not only clear and clearly defined, but, above all, used rationally. Meanwhile, however, the abuse in this area is stark as we tend to use generalisations and even slogans. In consequence, numerous problems arise. These mainly involve the inability to name the non-juridical areas

of the EU as the constant ones. That is why, probably, we do not use the areas but aims, which proves less binding. Moreover, we are not in a position to ascribe higher importance to the areas or seize the opportunities to use them in relation to the EU, the humanistic methods of interpretation, and, above all, an advanced research culture. The negligence in this area is one of the root causes of the EU crisis, in my view.

The European Union prides itself on its tremendous power to address the issues, especially the ones typified by the diversity of the varied degree of interpretation as well as the varied degree of it pertaining to the literature issues, in relation to which it should be structured on problem grounds. There are already areas that are to be interpreted by the E. U and through the EU, and not merely through its juridical activity, which inevitably proves effective in this case. Moreover, there is a premise to interpret numerous areas in the language that is more advanced than the first degree language, which, however, has not been used, yet. And this could be continued, as there emerges an attempt at reconstructing a new research area perceived as, to say the least, a hope to divert from the 'common' references to the EU. These are typically used in a simple way. Any time we need them, we simply refer to, and simply without any problems to the primary sources of the EU law reiterating that the EU was founded under (...) or this and that falls under its Commission. Invariably, this juridical standpoint is not the only one. However, undoubtedly, it falls under the most common and most commonly used ones encompassing all that is subject to legal classification, which, in turn, is in fact indispensable to the EU as an empire⁴. The issue of the proportion of the juridical vs. the non-juridical viewpoint on the EU cannot be neglected. Even though it does not hold true that a given institution, though well-equipped with law, or even making it within its legal capacity, should derive its identity from the laws passed alone. If this held true, then by reiterating its juridical viewpoint we would narrow the area of considerations of the EU as law, by definition, is conclusive, and what it marks has its ramifications. However, what we can refer to, despite the fact that law has its ramifications and by complying with everything it requires, applying the necessary assumptions, there are the contexts that allow to comprehensively examine the EU showing in its versatility its numerous problems, which do not necessarily need to be legal issues at hand. I am going to leave that. The issues at hand are well too familiar. The issue at hand is yet different. The thing is whether we do not deal with way too unilateral an examination of the

⁴ See: J. Zielonka, op.cit., Chapters 5 and 6; J. Jabłońska-Bonca, *Podstawy prawa dla ekonomistów*, Warszawa 2000, Chapter III., J. Barcz (Ed.), *Prawo UE. Zagadnienia systemowe*, Warszawa 2003, Chapter III.; S. Biernat, *Zasada efektywności prawa wspólnotowego w orzecznictwie Europejskiego Trybunału Sprawiedliwości*, in: *Studia z prawa Unii Europejskiej*, S. Biernat (Ed.), Kraków 2000, passim; Z. Brodecki, *Prawo integracji w Europie*, Warszawa 2006, p. 80 and next.

EU, which in fact proved very convenient in the beginning as the juridical viewpoint even if solely based on the above quoted characteristics of law, is simple: it has given back, it has not given back, it has got, it has not got, it should, it should not, it will leave, etc. Yes, these are the terms, one could say, primary, original, which, when they come into force, they do not tend to come back, they mark the ending. Yet, if they do not come true all the legal issues come to play, yet these of high complexity up to the level that aside the legal issues there also arise the ones from the non-juridical area typified by a high degree of aims that additionally urge complex answers. In here, the mere juridical standpoint does not suffice. Then we enter the area of intuition, emotion, and, undoubtedly, neither anticipated nor resolved issues. So we have two areas: juridical and non-juridical action in the EU, and, in consequence, there emerges the third one, in between the two. This could be the way out of the confinement in which the EU is now, the one we are in a position to explain, but only up to a certain level. Today, as if contradictory to it, it tends to face a new paradigm. The unveiling of it is not, as the conventional wisdom holds, easy.

What appears to be missing? As I have already mentioned, the substance, or to put it broadly, empiricism as well as other legal ramifications. The EU is clear in this respect. The development, measured through the application of almost all qualitative metrics, is significant. One could even say – substantial. In line with this there have flourished all types of freedom, human rights, even with the entitlement to guarantees. Thanks to this, and, above all, the goods gathered, the various advancements, the European picture is bright and one could assume that it is sound. However, this is just one, first side of the EU. The travails mount up, to a large extent, due to the joining of the EU member states the EU as the other party to the relationship. One should differentiate what constitutes legal bonding taking into consideration all the legal consequences resulting from this from what comes to represent the type of bond, in which one cannot explain everything on legal grounds, even though this type of interpretation is simple and convenient. With reference to this one should also differentiate the power of the EU as a type of power from the power as a type of power in the EU member states. This would already come to represent the third side of the EU. Each and every side comes in different forms. One should therefore classify them, and while classifying them differentiate them – along the terms ascribed – into distinct types, which would undoubtedly allow to examine the EU in greater detail along with the opportunity of its permanent development – in the context of the developing EU member states. Unless we differentiate this type of examination, the EU will face the crisis resulting from its further tightening, the one through the multiplication of the shortages lacking their methodological exemplification. Then the shortages, even if they come in large numbers, will also be manifested in single

cases not allowing to build even the simplest concept. Just today we face the case for accumulation as well as various financial operations. Yet, as it turns out, it does not suffice. It would then be advisable to differentiate the three parties to the EU, especially as they have come to be well represented within it despite their unstructured substance, as well as to define the areas between the parties and understand that in this 'in between' there appear to be the defining powers that generate the issues pivotal to the understanding of the whole EU as well as the mechanisms of the possible practice of its functioning. It will not do much good to add some novelties to it in the way of either quotas or other aspects. One should 'read' it anew understanding that there are many growth opportunities for it. Much is dependent upon the fact whether we are ready for it.

So, what is it that we are missing? Undoubtedly, this question will be asked again, and the trial and error method will prove one of the most commonly applied methods. Because drawing on the literature review so far, the EU examined from the research point of view, does not enhance learning. The literature, as a matter of fact, typifies the textbook approach, not in the form of it, but the style adopted. The proposals outlining what comes in short supply in the material world of the EU have already been well known from the previous considerations, and they have brought about nothing new to the debate. Nothing new has been conceived through the criticism levied on the EU when the criticism alone has not addressed the in-depth structures of the EU examination⁵.

The EU, meanwhile, within the time that heralds even if intuitively, a change in its paradigm, should become a construct that is also methodologically developed, encompassing being also methodologically determined. Today's, above all, dogmatic-legal determination does not suffice, as the EU law has not managed to create its own, congruent to it, theory of law⁶. As a matter of fact, it confines itself within its own regulations, especially opposing ones exhibiting a low capacity to explain the gist of its law. Meanwhile, this should be equipped with, on doctrine grounds, the assumptions that would allow to design its development in a way that is other than when

⁵ J. Zajadło, *Prawa podstawowe w filozofii prawa Roberta Alexy'ego – wprowadzenie*, in: R. Alexy, *Teoria praw podstawowych*, B. Kwiatkowska, J. Zajadło (trans.), Warszawa 2010, p. 20 and next; M. Kordela, M. Smolak, *Postscript H.L. Harta*, „Państwo i Prawo” 1995, Vol. 1, p. 53 and next; S. Kaźmierczyk, *Z teoretycznoprawnej problematyki wykładni prawa*, in: P. Kaczmarek (Ed.), *Z zagadnień teorii i filozofii prawa. Lokalny a uniwersalny charakter interpretacji prawniczej*, Wrocław 2009, p. 28; J. Oniszczyk, *Koncepcje prawa*, Warszawa 2004, Chapter V.

⁶ See T. Gizbert-Studnicki, *Konflikt dóbr i kolizja norm*, „Ruch Prawniczy, Ekonomiczny i Socjologiczny” 1989, Vol. 1, p. 13 and next; See A. Ławniczak, *Losowanie w sferze publicznej. Między wróceniem a głosowaniem*, p. 150 and next; S. Kaźmierczyk, *Standard użycia praw człowieka*, in: *Wpływ standardów międzynarodowych na rozwój demokracji i ochronę praw człowieka*, J. Jaskiernia (Ed.), Warszawa 2013, pp. 35–40.

viewed cumulatively. Also, the non-legal development as also this type of development appears feasible especially drawing on the example of the EU law. I will leave that for yet another piece of work. Now, the EU is subject to confinement as far as the exploration of its new research areas is considered. And this should be expanded upon such new areas and thus creating a new field of research in which one could address them in a limitless way empowering the EU with the capabilities to generate ideas. This should picture the EU in a different way, not the way it is portrayed today that shows it as a rather single mechanism which exhibits numerous fears that it can cease and, additionally, with the same magnitude as it can get derailed.

One can thus state that even for the time since the conception of the EU functioning the most significant issue has been the fact that it would not be involved in the direction from it to the member states and vice versa, being equipped with the right legal tools. Today, however, in my view, it is necessary to explore it not depriving it of any instruments, making a research methodology out of it with the view of generating new ideas, aspirations, new ways of activity, aims, etc. applying the right corpus of concepts and terminology. This would constitute a mental change in the perception of the European Union advancing it to the level of generating ideas at the same time stating that its current construct is a rather formal one designed in accordance with the assumptions of yet some sort of mechanism. And one more thing, even when stating that the up-to-date functioning of the EU has been, as a matter of fact, based upon tangible facts or typical assumptions relating to them as well as empirically-derived rules than today, not being deprived really of such an approach and empirical measurability. The EU could be characterised by methodologically reconstructed concepts, theses, postulates especially the ones that could allow to interpret it in the material and, alongside, cognitive development. It, commonly said, has been injected into the member states through the preceding period typified by the constructs of, above all, juridical nature and in the way in which something is created, something that has power – the power empire⁷ making it at the same time a category of the legal world. And this has harmed it as it confined it to, as a matter of fact, a finite number of terms of, above all, legal provenance, and additionally – of dogmatic-legal one. Moreover, it has petrified it.

Thus the EU renders almost powerless today in the light of the events that have occurred as they themselves do not find room within the created petrification. It

⁷ J. Zielonka, op.cit.; J. Barcz, A. Michoński, *Traktat akcesyjny. Traktaty stanowiące podstawę Unii. Prawo polskie – dokumenty*, Warszawa 2003, passim; P. Biała, *Tożsamość konstytucyjna a Traktat z Lizbony. Tezy wyroku federalnego Trybunału Konstytucyjnego z 30 czerwca 2009 r.*, „Ius Novum” 2010, No. 2, passim; M. Borucka-Arctowa, *Zaufanie do prawa jako wartość społeczna i rola sprawiedliwości proceduralnej*, in: *Teoria prawa. Filozofia prawa. Współczesne prawo i prawoznawstwo*, Toruń 1998, p. 50 and next.

– as can be seen – exhibits the tendency to “classify” everything being complacent when the “classification” proves effective. Above all, this has accompanied it since the very beginning and aims to simplify in this tendency trying to create, to some extent, a single picture of the EU characteristics. It then seems clear that under this influence one approaches a legal text in order to draw the right conclusions, which, consequently, enhance the petrification as well as easily transform into the knowledge of the current EU affairs. There appears a real iunctim, which to a large extent, equips us with the knowledge of the EU. The consequences it bears cannot be both developmental and ground-breaking as the upper ceiling of this knowledge is confined (still) within the framework of the legally-binding law, the dogmatic-legal framework⁸. It appears difficult to be surprised then that when asked about the development of the EU there are numerous examples given, the enumeration of further sources of the EU law etc. Probably I am simplifying matters in here, yet this seems viable and justifiable given the knowledge obtained from the law, which is really getting prevalent within the EU. Finally, does it stop at this obtaining or can it advance to a higher level and become the knowledge constructed in search of, say, another EU?⁹ This urges another extrapolation.

The EU, taking its empirical side into consideration, remains the area of, above all, the creation of facts, numerous facts across its distinct fields. Much in this respect depends upon the way we approach them, whether we have more of them e.g. in terms of the areas of activity and congruent to it, more reconstructions pertaining to the levels of the directions and, resulting from this, cognitive consequences even if merely through the acting upon these levels. Or is it so that we refuse to conduct the typology in this respect and we remain at a lower level in relation to the capability to examine the facts. Then – which seems natural – there the empirical views are aired that are complemented by the proper methodology of empirical research. It gets worse if we do not take into account the distinctiveness of the methodology or we do not try, on the basis of the facts as the outcome of the EU activity, to search for, which also means in a methodological way, the areas that by nature generate new ideas, not excluding new research directions.

Above all, the mere differentiation, on the grounds of the distinctive assumptions, the facts forming directions as well as the marking of *inter* in relation to other facts, let

⁸ See: Z. Brodecki, S. Majkowska-Szulc, *Orzecznictwo prejudycjalne: skalpel czy maczuga?*, in: *Pytanie prejudycjalne w orzecznictwie ETS. Funkcjonowanie procedury prejudycjalnej w Polsce*, C. Mik (Ed.), Toruń 2006, Chapter I.; J. Galster, *Teoretycznoprawne aspekty obowiązywania, stosowania i przestrzegania prawa wspólnotowego w porządku krajowym*, in: *Implementacja prawa integracji europejskiej w krajowych porządkach prawnych*, C. Mik (Ed.), Toruń 1998, p. 13 and next.

⁹ See: H.G. Schermes, *No Direct Effect for Directives*, “European Public Law” 1997, Vol. 3, No. 4, pp. 527–530 and next.

us assume that they also make it possible to be used in typology and allow to make out of the generating of *inter* subject to the EU research with the aim of its development. *Inter*, its intellectual extrapolation, gives the EU an open viewpoint. But not directly. There are two main issues. *Inter* invariably gives the opportunity to develop at least two areas in relation to one another that are separated by it. Yet it alone, examined separately, does not have the capacity to produce the expected generation. It needs to be placed across the EU areas that are already conceptualised, on grounds of the current or possible to obtain knowledge so as to make the *inter* boost generation. This would mean that by operating it alone we will stand to achieve nothing new. We need to commence with the preparation of the ground for what can be viewed in it as probably creative, what interests us – among. In it alone there must be relations that by which it binds the distinctive areas. Obviously, the more unveiling of the relationship there will be the more in-depth knowledge we hold in a given area.

Taking the EU as a whole, and this is the way we examine it most typically, i.e. disregarding its methodological differentiation, assuming the problematic differentiation, not the organisational one, which is subject to stark reiteration thus making it commonplace today, we often stand to face the issues that are complex to resolve. The assumptions that hold that the EU is a competence-organisational system stand in opposition to the ones pertaining to the problem-based mechanism. And as the EU is a highly complex organism, the negligence of such a differentiation must substantially impede the interpretation of the EU

Thus bearing in mind that it also comes to represent a mental category, let us draw on it as a community and the power empire¹⁰. They are both represented to a large degree in it. If they were to be examined thoroughly, the knowledge of the EU, and consequently, its outcome would cease to be so automatic, even though we should admit it is great and in some respect equal to the economy of the U.S., and even in some cases it exceeds it. This automatic phenomenon is manifested mainly in the fact that when the EU is portrayed we do not draw it the way to transform it, in the drawing of it, into a reflection on the EU alone. Exactly this type of depiction, which also generates in this reflection, would be hard to find in our literature, at least given as an example. As this type of description, simultaneously (this way) generating the expected concept would (surely) be possible only when there was an idea in its portrait at the same time unveiling what there is in this portrait that would allow to simultaneously extract the elements covered by it, whose description comes at ease

¹⁰ Z. Brodecki, *Wpływ integracji europejskiej na sposób myślenia prawniczego*, in: *Europeizacja prawa krajowego. Wpływ integracji europejskiej na klasyczne dziedziny prawa krajowego*, C. Mik (Ed.), Toruń 2000, passim; S. Kaźmierczyk, *Próba typologii stosunków prawa międzynarodowego do prawa wewnętrznego*, „Acta Universitatis Wratislaviensis” 1992, No. 1313, Prawo CCVI, p. 130 and next.

to us, just the *inter* of the elements and speak the way that is required by the language of *inter*. And this is a fundamental issue¹¹. If we are not in a position to steer it and extract the methodological directive out of it, the directive entailing the research approach in relation to the EU, then it will be stuck in portraying the given tasks, often making us expand upon the EU through the application of the first degree language.

Moreover, the current language about the EU is, for the above given reasons, the language that is primarily the one of the examples derived from its substance. The lifespan of such a language is short-lived as we ascribe prime importance to empiricism. In a word, it would be good to diminish the functions of this language even though it seems to be distinct in the elaboration relating to it. There also emerges the language about the verdicts concluded by the EU, respectively. It resembles the language of examples or the descriptive presentation of what has been ruled in terms of the decision-making body. It seems that it is simple and easy because it is mostly pictorial and we do not need to imagine this portrayal. I do not intend to state that the *inter* language is essentially complex and difficult. It can also be simple given the fact that any higher level of its generation becomes a higher level of yet another *inter*. So, to continue, we explore and at the same time justify¹² the idea in question, the undertaken research and, alongside, the practical course of action. As this is also the language of development, and the EU needs to develop manifesting this development not only in the way of depicting the empirical outcome, but also how this outcome should be research-conducive in order for yet another *inter* to emerge. The next, i.e. an advanced one both in terms of the area of generating new facts and mental representation of the EU Without this in place we will face the empirical accumulation of facts and not the ones that are research-focused. As we post growth and the EU alone represents an economic power, then why do I demand something new in research terms? The answer to this question can be multiple. It can even constitute a premise to draft a monography. Suffice to say that if the EU is to develop, also in many ways,

¹¹ S. Kaźmierczyk, *Inter (prawo) Ponowoczesność*, M. Błachut (Ed.), Wrocław 2007, p. 27 and next; *W metodologiczno-dyskusyjnym sposobie zajmowania się kryzysem*, „Studia z Nauk Społecznych” 2013, Vol. 6, Polkowice; *Wertykalność Unii Europejskiej w związku z horyzontalnością Rady Europy jako zagadnienie metodologiczne*, in: *Rada Europy a przemiany demokratyczne w państwach Europy Środkowej i Wschodniej w latach 1989–2009*, J. Jaskiernia (Ed.), Toruń 2010, p. 108 and next.

¹² See: W. Sadurski, *Status jednostki w prawie: refleksje filozoficzno-prawne na temat prawowitości demokracji proceduralnej*, in: *Prawa stają się prawem: Status jednostki a tendencje rozwojowe prawa*, M. Wyrzykowski (Ed.), Warszawa 2006, passim; M. Zirk-Sadowski, *Instytucjonalny i kulturowy wymiar integracji prawnej*, in: *Zmiany społeczne a zmiany w prawie. Aksjologia. Konstytucja, integracja europejska*, L. Leszczyński (Ed.), Lublin 1999, p. 53 and next; J. Woleński, *Treść logiczna dwóch zasad prawnych*, in: G. Skąpska, J. Czapska, K. Daniel, J. Górski, K. Pałeczki (Eds.), *Prawo w zmieniającym się społeczeństwie. Księga poświęcona Profesor Marii Boruckiej-Arctowej*, Kraków 1992, p. 143 and next.

any idea fostering this growth should represent the formative attribute shaping the EU also in cognitive and humanistic areas.

If this came about, it would result in the fact that the EU could be interpreted not only through the language of reflection, but also the language of concept, which does not indicate that it represents a concept. It would constitute its own language, the EU language of multiplicity. It can be drawn from that that the EU is not refractory up to the point of harshness. It is able to become a “soft” portrait not standing to lose anything. Yes, being exactly “soft” on condition it results from the *inter*. The European Union, in the area depicted for the community alone, will become relative in relation to its parts. This way, through the making of this relativism subject to its research, it can result in the fact that the EU, being the subject alone, especially designed because the *inter* leads to the fact that it becomes right, that the subject is synonymous with the research-based steering of the EU.

There are then two distinct types of the research subject relating to the EU. One type, in accordance with *inter*, exhibiting the feature that it both and even directly steers the EU. Another one, the most commonly applied, is manifested as the one that addresses some issues within the EU whereas in reality it is restricted to the presentation of the issue addressed as the addressed one. This could easily be excluded as it is most colloquial in the textbook aspect. I am not doing this because, and above all, it does not need to mean that it proves useless in any respect. Let us recall the subjects that I have previously enumerated, i.e. the description alone as well as the next one involving the application of the interpretation yet not from the very beginning, and through this transforming into a concept, some concept around the EU. If the reconstructed concept of the EU methodology design was based on these four types of research subject, it would become, this time round in the context of Europe, a category, which, as I assume, could be firmly called a European formation encompassing possible transitions from (today) the EU and Europe through this formation. I believe the EU has the capacity to make the transition to the next development stage as a methodological type constructed so as not to resemble the Medieval empire¹³. With reference to these distinctions one can say that in the research into the EU (reiterating) designed are the steering as well as the variables dependent upon this steering, the portrayal of itself alone. Steering is something simple when we observe it through the functioning of mechanisms that were legally formed by the EU bodies. Then we can, at most, ask whether it (by definition) emulates within the legal framework. Moreover, I see the steering of the EU as if through the lenses

¹³ See: J. Zielonka, op.cit.; P. Zychowicz, *W obecnym kształcie Unia długo nie przetrwa*, „Rzeczpospolita” 5.05.2008; Z. Brodecki, *Prawo integracji w Europie*, Warszawa 2008, pp. 52–55.

of the EU, i.e. the EU by the EU, and this is my point exactly. As while examining it through the terms of the competencies of the bodies I can then emulate the steering. In the other case, however, the EU is to be developed through the EU based on new development criteria. The differences between the two types of steering are significant mainly in terms of the interpretation of the EU especially in connection with it viewed as a formation. It is clear that the significance could be there if it did not concern the fact that there is the same quantity of it (figuratively speaking) as when it was formed, that it takes place, and that we can recognise it through the “facts” that occurred. To expand upon that, given the current approach to the interpretation of the functioning of the EU, we can depict it, it seems, above all, in the context of its petrification, permanent petrification, the petrified development. I do not state that petrifying should not be understood in a pejorative way. Nevertheless, while examining the current EU aspects, the word unilaterally gains too much momentum. As we tend to appreciate the growth of the EU, however, given the current viewpoints. So then growth, yet without the changes fundamental to its substance, growth through accumulation – in particular. And even though it is not mutually exclusive, it urges the emergence of many new mentally-oriented reconstructions, worth the devotion of a separate piece of work. Similarly a separate one in this area: under what assumptions concerning the upholding of the lack of changes the EU might expect (in the current state of affairs) growth? The assumptions have come to play a significant role as the correlation between the growth of the EU and its changes are more visible, and in more in-depth structures they might come to apply yet another paradigm.

Following the petrification, the above-quoted language, just merely concerning the communication about the EU as well as within the EU, will be the language typified by “stock phrases”, not the language relative to its substance, i.e. it will come to represent the communication formed out of the EU information. Moreover, the same sort of information as is required now by the already petrified EU. Nevertheless, speaking of the EU in the language resulting from *inter*, we permanently tend to manifest what is in this in between, and this may also be infinite, which means that we do not always need to refer to the Accession Treaty in order to interpret the EU

The up-to-now opinions on the EU exhibiting the fear of what could happen when a member state “fails” or leaves the EU, are typical for both the understanding of it and the language through which we portray it. As far as the language is concerned, it comes to be right when expanding upon an international organisation and under certain conditions, e.g. statutory ones. It is clear and, to a large extent, obvious. It can also be derived, but mainly felt, that the consequences of such a leaving or ‘failure’ can be non-statutory as well as the magnitude of them would be staggering. However, there is no one case when such a “failure” as an anticipated one would give the

opportunity to overhaul the functioning of the EU in its many contexts, so as to unveil the mechanism of mental consequences, non-cumulatively impacting upon the EU, or let alone formative ones. There appears, however, the implying of the empirical facts, which cannot be neglected, yet it appears difficult to come to terms with the statement that they alone would bridge the, as is applied, “gap” following the exit. It might, however, turn out that a possible exit would, in the case of the EU, represent a problematic case that would outweigh, yet from the problem standpoint, even the EU alone¹⁴. Above all, the problems would need to be differentiated in the meaning of describing (defining) them and making methodological use of them. It turns out that the language linked to these fears is in fact poor, far from the explaining of anything, inadequate to the level of the EU. And when we want to adjust it to some reflection, it rarely exceeds the level of generalisations not excluding demagoguery.

Taking the above presented assumptions into account as well as the suggestions relating to the preparation of distinct concepts of interpreting the EU, its perception in the European omnipotence, let us start with the prime characteristics of the EU, and within them the ascribing of importance, i.e. rank, which it would hold. The following, simply speaking, fall under this category: meaning, prime mover¹⁵, etc. definitions. One can, under certain assumptions, assume that they are subject to justification through the reference to law. But it then, confined by law, will get formalised quickly and will come to represent an easy, sometimes even propagandist, point of reference. Such an understanding of significance does not prove helpful in the presentation of the EU, especially in its community character. Yet, when we examine the situations arising out of it and positioned in between it and Europe, also in its numerous aspects, and this in between, in turn, make subject to research, a new array of issues will emerge also of evaluative character and at the same time leading to the defining of the above mentioned rank. It is, in fact, not only of evaluative nature. In a word, we will face the ample field of generalisation. Then we will come to realise what reasons impact on the significance of the EU, the developing EU and the reasons that do not impact upon it, and in here, do not develop the EU. The reconstruction of such rank, the reconstructing through the *inter* gives the EU a significant research field and clearly in the humanistic aspect. The “rank” cannot merely be a solemn word. This being

¹⁴ J. Ruszkowski, *Wstęp do studiów europejskich. Zagadnienia teoretyczne i metodologiczne*, Warszawa 2007, pp. 254–255 and next; L. Graniszewski, T. Kownacki, *Legitymizacja demokratyczna Unii Europejskiej*, in: K.A. Wojtaszczyk (Ed.), *Legitymizacja procesów integracji europejskiej*, Warszawa 2006, p. 65 and next.

¹⁵ S. Kaźmierczyk, *O tożsamości prawa w związku z jego jakością*, „Acta Universitatis Lodziensis. Folia iuridica” 2015, Vol. 74, *O pojęciu odpowiedzialności z perspektywy zagadnień filozoficznoprawnych i wybranych dogmatyk prawnych*, T. Bekrycht (Ed.), p. 211 and next; A. Kość, *Relacja prawa i wartości w społeczeństwie otwartym*, in: I. Bogucka, Z. Tobor, *Prawo a wartości. Księga jubileuszowa profesora Józefa Nowackiego*, Kraków 2003, p. 140 and next.

manifested in the aftermath of its usage as an effect of the research subject and the outcome of transforming this subject into the right metaphors¹⁶ depicts, in fact, good starting points to cover the systems of problem areas by the EU, and not only the majesty of Euro-enthusiasm. I will disregard the fact how many important issues have been belittled due to Euro-enthusiasm/Euro-scepticism. Little is known about this fact about the EU. As a matter of fact we do not know its rank unless we apply this term on propagandist grounds heralding that it is grand. I have not used the term “in view of”, so “Europe in view of the EU” or vice versa. The thing is, not making comparisons, to reconstruct the rank as a separate category, chosen on research grounds, and to additionally be in a position to operate it both on the EU and Europe.

What is the benefit? It unveils, above all, a category which can be ascribed the capability of creating motions to address the whole EU, or the issues that prove significant to it.

Up till now it has been so that there is no need to put forward and develop what sciences should relate to the EU. The EU is subject to analysis and this should suffice. As it can be seen, it does not suffice. However, the pending question which field of science this should be concerned with the most does not represent the difficult question because there can be no justification in it, but rather the question that proves impossible to resolve to a degree exclusive to the EU alone. It would be so if we wanted to choose from all the sciences the one and state that this is, indicating, the master EU science. Such attempts have not been officially made, and that is legitimate¹⁷. I believe, however, that it is impossible to disregard the above question, and let us leave the answer that it can be e.g. economics as this science, even though applied everywhere, cannot ultimately address the EU. The thing is that we are to obtain this knowledge (science), as I believe drawing on the up to now considerations, from the EU and while obtaining it, through the designed methodology, develop the EU to such a degree as the one to which we obtain it. In a word, the EU should potentially hold the knowledge (science), and consequently, the more we advance the methodology of developing qualitatively important features of the EU, the more it will be able to generate problem areas new to itself disregarding the current quantification of sciences. So whether it proves better to refer to e.g. sociology, economics, or culture largely depends upon what we derive from the EU in research terms.

¹⁶ See: T. Bekrycht, *Aprioryczność prawa. Ontologia prawa w fenomenologii Adolfa Reinacha*, Warszawa 2009, passim; also, *O związku koniecznym między prawem a moralnością*, in: *Abiit, non obiit. Księga pamiątkowa poświęcona pamięci Księdza Profesora Antoniego Kościa SVD*, Lublin 2013, pp. 85–90.

¹⁷ See: T.G. Grosse, *Demokratyczna czy technokratyczna legitymizacja Unii Europejskiej? Nowa Europa*, „Przegląd Natoliński” 2008, No. 1, pp. 287–290; S. Konopacki, *Problem deficytu demokratycznego w UE u progu XXI wieku*, in: *Unia Europejska i Polska wobec dylematów integracyjnych na początku XXI wieku*, M. Stolarczyk (Ed.), Toruń 2006, p. 120 and next.

In this context we can easily come to a conclusion that the legal approach proves insufficient as even all that needs regulatory framework is insufficient for the EU research. It, by itself, appears to have many uncovered regulations of not necessarily juridical nature. It is a construct entailing its “own” non-juridical areas unless it makes the areas of obligatory, yet not (in essence) legal nature. Among the areas there are surely the ones that concern the steering of the EU not indicating that they always involve direct ones. There are also the areas that cover the sources of law perceived as, above all, deposit and contingent ones. And eventually, the ones that concern responsibility and the area of consequences resulting from it. This area urges a special classification within the EU as there is rather more responsibility than the law itself. Moreover, the issue how the EU is driven by the application of responsibility and the consequences resulting from it, appears to put forward the assumptions to address the cognitive problems of the EU. The responsibility that the EU bears is by definition different from the responsibility the state bears. This, derived from the EU enjoys more universalisms that encompass it all, freed from the comparisons typical for the state and in relation to the state¹⁸. Moreover, it is probably so that the EU responsibility does not need to be at least as legal as state-specific.

In order to resolve it and be in a position to relate to these areas and regulations, the question what type of knowledge would be most suitable proves important, but I want to add, at the same time the knowledge that proves able to unveil the assumptions that would allow to make the regulations (areas) subject to the EU research as well as the ones that would steer the EU. The dual insight: research and the steering of this research proves essential if we want to combine it with practice¹⁹. The separation of the two categories, especially research from steering can result in the fact that we will portray the EU in a different light, i.e. how to move on from its research to steering, the steering of research not to mention that there is hidden the knowledge of this steering in between the two. In here the mere description does not make much sense unless we sketch it the way to transform it into concepts or visions. I will not mention the fact that the now commonly applied “ready-made solutions” stifle the EU

The question concerning the type of knowledge can be approached arbitrarily and it can be said that each and every of the types either addressed individually or (as I put forward) viewed from the EU standpoint as a kind of phenomenon or category, accordingly holding the opinions of methodological nature of demands. If we, e.g. assume, and this is the way it is done, that this knowledge is typified by the

¹⁸ A. Kozak, *Ponowoczesna koncepcja prawa*, in: *Z zagadnień teorii i filozofii prawa. Ponowoczesność*, M. Błachut (Ed.), Wrocław 2007, p. 85 and next.

¹⁹ E. Dynia, *Zasada autonomii prawa wspólnotowego*, in: *Prawo międzynarodowe, europejskie i krajowe – granice i wspólne obszary*, B. Mikołajczyk, J. Nowakowska-Małusecka (Eds.), Katowice 2009, passim.

science of law, political studies, international relations, or economics then we tackle the representation of the EU at the level of individually-perceived knowledge. This results in the fact that we are unable to resolve the EU issues up to a point that we put the blame on it covering the fact that we lack the knowledge of an effective crisis resolution. It also happens that we obtain “bits” of each and every knowledge and under the cover of the *holistic* approach we assume that we will address the issues at an advanced level. In effect we face the EU and we do not know what to do next.

The examples that law, economics, etc. prove ineffective appear to be conspicuous. They merely prove effective in some EU²⁰ task-based cases not aspiring to take the whole EU into account. The literature in terms of the number of such cases is abundant, probably it already comes in the large number of libraries. Nevertheless, what results from this for the EU research as a research subject is rather bleak. In opposition to it one should (I believe) set, in relation to the EU, the right for it and within it possible *inter*, and the new issues generated in it should constitute starting points thanks to which it makes it feasible to restructure the answers to the question what the EU is and what it is likely to become as well as how to develop it within the EU facing the combating of the crisis.

I believe that this viewpoint is opulent and it enriches the EU as a whole. So, it does not hold true that we examine the already existing knowledge and the current way of thinking congruent to it in order to examine the EU. This way we will stand to solve merely a few problems within it as it is impossible to bring the EU problems up to date through this. One needs to examine the EU thoroughly and while examining it thoroughly one needs to conduct the methodology of this examination and exhibit its problems alongside. Beforehand one needs to rely on the search of generation leading to the vertical idea in the development of the EU processes. In order to illustrate this I will relate to the previously mentioned issue concerning the rank of the EU. It is complex for at least two reasons. The first reason is real and it is manifested in the dominance of empirical facts. The other one allows to, when applying the put forward proposals, reconstruct the rank in the system of basic problems while taking notice of the necessity to develop it permanently through, above all, discovering new *inter*. The permanence under this assumption is significantly characteristic to the rank issue. Expanding upon this, binding with this permanence, to the important question, whether the EU has the ability, the formation ability to perform Europe as this needs to be done permanently. Answering this, I am referring to *inter* between the EU and Europe. Explored in the way which is put forward in here, also as a way of

²⁰ T.T. Koncewicz, *Poszukując modelu sprawiedliwości proceduralnej w prawie wspólnotowym. Mit czy rzeczywistość?*, Zeszyt 30, Centrum Europejskie Natolin, Warszawa 2009, passim.

thinking about the EU, it can lead to a research-abundant field of its examination and equipping it with the practice which this could respect in accordance with its goals.

Obviously, the above *inter* should first be conceptualised even for the sake of the research capabilities that it produces, and then one should decide whether they have the capacity to generate new ideas so as to apply them on the parts of this in between, developing them mainly in relation to transcendence, i.e. the overcoming in EU terms itself, performing according to its rank, to create a modern Europe. By the way: resolving or overcoming, I understand that in the free language convention, the first becomes the second. However, under the assumption that resolving can happen in connection with the horizontal creation of what is subject to resolution, the overcoming, as it is vertical and thus more in-depth, appears more accurate for the functioning within the EU. Suffice to say whether the EU has resolved the Greek problem or not, not to mention whether it has reconstructed it properly or overcome it, and if it did not overcome it, then why? Let us leave the Greek case aside. Still, today the low level of methodological reflection on the part of the EU is visible along with the low level of the reflection of its rank. Needless to say, it is focused on immanence²¹, from which it will not be able to set itself free. Moreover, it is developing itself in this system and even though it exhibits numerous hierarchies and priorities, as a whole, it is an organism that is by definition subjected to immanence and thus it protects only these. In here, in my view, there is the essence of its infirmity, which it is unable to tackle. I do not deny that immanence is necessary and indispensable, yet there must also be clear shifts to transcendence being conscious what the reconstruction of the inside can cause to the EU as well as what methodological directives can result out of it²².

Yes, all this that looks like a state of general theses should be directed towards their specification answering the question whether this is alongside already possible. In connection with this question there should be made a clear distinction between incidental and specific-individual situations from the EU. The first ones remain in the implementation of law and represent an element of the practice of this implementation; they will be disregarded as the achievements in this respect of legal sciences seem satisfactory. The other ones, however, are already possible in the implementation to the EU as research starting points in the need for its research into development – exactly, which, as can be derived from the above points, assumes another measure of specification.

²¹ See: J. James, *Nowa filozofia francuska*, J. Bednarek, P. Juskowiak (trans.), Warszawa 2014, especially Chapter VII.

²² Ibidem.

It also seems that *inter* can be used as a measure of research progress. There can also be varying degrees of meaning in substance terms. As the orientation about them is derived from knowledge, current to a given *inter*, the question where we derive it as far as the EU is concerned, remains in connection with two issues: whether from the EU or rather from about the EU. As far as the first question is concerned, the answer to it can be conclusive especially in the area of self-steering of the EU. It, while creating, is the goal of its creation, at the same time it creates knowledge of itself, yet if it was to be used cognitively, one would need to reconstruct this knowledge in the first place while applying the proper methodology to the reconstruction process²³. I believe the process of obtaining knowledge through the unveiling of it as a methodological series is of prime importance in the EU case. It holds true that we can conclude by stating that we are presenting the practice, and in fact this is the way it is done, not extending beyond the conducting of its description. Yet, being conscious what we are describing, the description has to be made the way – as I have already mentioned – so that it will simultaneously introduce itself into the knowledge concept, leading to a simple ascertainment that each and every practice involves the knowledge at least of itself, not to mention the subject that simplifies it. It is because if this stage of search at the same time the shaping of the cognitive knowledge is neglected and we obtain the necessary knowledge from the outside, or for the inner one we put forward the assumptions that would belittle it due to these assumptions, then our knowledge of the EU must be at least impoverished alongside being inadequate to launch its cognitive processes. Precisely, “launching cognitive processes” seems to be a primal directive to the building of progress of the EU in its learning. And this should be one.

Nevertheless, the EU is an instrument, but not in the hands of but in relation to Europe above all, and only through this middleman – in relation to states. In a word, I hold the belief that the EU, by itself, through the mere process of its functioning and the assumptions about itself, creates its own knowledge which we freshly hold or we lack the possibility to “construct” it. This, in turn, in this construction can lead to its own *inter*, and through this to its explanation. In the footsteps of it, in order to expand upon the issues in the area of the EU vs. Europe, the EU as a community, Europe as a civilised, civilised in a modern way product, one needs to draw a series of problems from the existing *inter*, whose solving on the basis of the knowledge, not free, but internally proper to the EU, will allow to interpret the EU in relation

²³ The issue of reconstruction was elaborated upon by S. Czepita, *Reguły konstytucyjne a zagadnienia prawnoustwowa*, Szczecin 1996, p. 144 and next; See: K. Szczerski, *Dynamika systemu europejskiego*, Kraków 2008, p. 50 and next.

to Europe. Obviously, this could be formed legally, and by referring to the EU law prove that the EU in some way shapes this relationship on juridical grounds. But what will it bear above what we already know? I will leave the answer without any further expanding upon, yet, in this case, “shapes” does not have the formal-legal dimension. Undoubtedly, the more pending issue is what this consideration of the *inter* depends upon, e.g. its quantity, or rather the framework? I believe that it depends on neither one nor another one. “Among” emerges in the course of deepening the conceptualisation of what we intend to assume while entering the research concept area of the EU, its methodological reconstructing. So, reaching *inter*, the knowledge we hold is already well prepared for it to mark itself in it. Naturally, it is not automatic. Yet, it also seems certain that this even mere *inter* in order for it to have the capacity to generate in some respect, it should be methodologically recognised in the first place. Approaching it one way or another, *inter* appears to be typified by the fact that, to some extent, it allows to build the knowledge of the EU from itself. And the knowledge that in some respect can elevate to the level of regularities. And this (I believe) cannot come about while entering the EU from the outside. Then the interpretation of it will incidentally be confined (still) to this with what we are approaching it. Moreover, even if we are developing what we have contributed, it will not become equivalent to what we would develop out of it. This would conflict with e.g. the EU law, which even *prima facie*, belongs to the EU, and to be precise it is the EU law. It holds true that one cannot change the fact that, as to the essence, this law falls under the law as an area of science that already exists. So it is something external to the EU despite the fact that such or such regulations are its regulations. Taking this point of view into consideration, the system of the EU law is examined instrumentally, instrumentally as required by the EU. However, if we were to divert from this understanding of this law and moved on to the non-instrumental orientation, covering then the understanding of the EU law in the EU, then *inter* would open up: between the European community and the contemporary design of its legal thought. This would probably become the new problem issue in the light of the arguments of the nature of the EU law.

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