**JEL codes: K10**

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# INTERPRETATION OF THE EU LAW BY THE AUTHORITIES OF THE MEMBER STATES. THE DOCTRINE AND PRACTICE

**Abstracts.** The manner of understanding law depends on culture and all the historical, social and economic factors which have been shaping its comprehension. The prevailing belief, typical of contemporary Europeans, associates law with texts — sets of various acts, remaining in diverse relations and correlations with each other, acts containing linguistic statements whose common feature is the capability for expressing an obligation. As a matter of fact, this obligation is aimed at ordering or prohibiting a specific behaviour. The texts which include directive-based statements are examples of a formalised, external form of law, and therefore law itself is usually equated or identified with texts. According to the doctrine of positivism, predominantly applicable in mainland (continental) Europe, law is established by a sovereign (legislator) and shall be interpreted as if intellectual work on a text were to reconstruct the sense previously expressed in the text. Taking this convention into account, the role of an interpreter is relevant,

though passive. The interpreter's role involves decoding norms included in legal texts according to an 'algorithm' whose objective is to establish a full correlation and understanding between a sender and a recipient of a particular message. Despite being undoubtedly useful, such understanding of law is strictly connected with a country's dominion and the manner in which social control is exercised by state organisations, or strictly speaking, by decision-makers. This image of law has been revised by social changes, exchange of experience, as well as encounters of disparate cultures and doctrines. What we used to consider as law appears to be a more complex and multifaceted phenomenon, whose centre point, at least within our cultural circle, is still the language and specific manner, characteristic of law only, in which the language is used. Moreover, the approach to interpretation is also changing. The interpreter's task, within the dynamically changing and multifarious reality, is to assign some common and universal meaning to the written law. Thus, complementing the written law by means of discourse is becoming a natural way in which such written law may operate within the society. As far as discourse is concerned, interpretation is neither a secondary action towards the text, nor a description of something given from the outside; on the contrary, interpretation bonds together with the text, thereby rendering law an 'interpretational being'. Functioning of the legal system of the European Union is a representative example of forming law within the process of interpretation. The space and specificity of the EU law, in fact, go beyond traditional schemes, demarcated by boundaries and determined by one predominant doctrine. As a matter of fact, similarly to the European Union, the EU law is unity in multiplicity, originating from and clutched in diversity of cultures, practices, institutions and ethnic languages. The challenge related to accession of new Member States to the European Union involves not only adopting a common legal order and aligning the national law, but is also connected with a change in the approach to law and adopting an interpretation practice, which is frequently different from the currently applicable one. It is not an easy task since on the one hand, the EU normative acts are construed within a different system context, linguistic context or functional context, and on the other hand, some patterns of interpretation, which are applied to interpret the EU law in a natural manner, tend to operate in each legal culture. Nonetheless, the genesis and characteristics of the EU law are so rich that taking them into consideration requires that the interpreter should confront problems which are much more complex than in the case of interpreting texts concerning the national law. Maintaining uniformity in respect of applying the EU law is also of the most significant tasks lying within the scope of responsibilities to be executed by national authorities. Ensuring that uniform (i.e. identical with respect to all Member States of the European Union) EU normative or legislative acts are duly applied is a basic obligation of the Member States, which is additionally expressed in uniformity of the results concerning interpretation of the texts. Although the interpretation practices executed by the EU authorities and bodies or national authorities may vary, the results of the aforementioned interpretations should be similar or even identical. National authorities or na-

tional courts are willing to apply the methods and rules developed within the framework of the European Union doctrine, primarily through the case-law of the Court of Justice of the European Union (formerly the European Court of Justice) in order to fulfil the aforementioned obligations.

Although the case-law of the Court of Justice is not a source of law on a formal basis, numerous representatives of the doctrine tend to grant such status to the Court of Justice, whereas all of those representatives recognise its prominent role in shaping of the European Union law. Incorporation of the Court of Justice of the European Union to the process of shaping the EU law at the level equal, and sometimes even exceeding, the position of a formal legislator is linked with reception of the tradition originating from the Anglo-Saxon culture and recognition of de iure precedent, operating within the common law system, as an autonomous source of law. National courts are more and more frequently taking over the role of the Court of Justice within the national systems.

The process of approximation or ensuring compliance, referred to as harmonisation, is largely determined by the interpretation practice since the modified national legislation, within the context of the requirements imposed by the EU law, is subject to assessment primarily in respect of its application rather its formal structure. The factors which hinder and restrict operation of a common interpretation model include multilingualism of the texts concerning the EU law, as well as the differences in understanding law, its structure, its properties or its institutions in local cultures. The interpretation-related principles and directives, largely reconstructed on the basis of the practices exercised by the EU authorities or bodies, particularly by the Court of Justice of the European Union, are aimed at eliminating the undesirable results. The function regarding principles in the process of interpreting the EU law emerges and becomes particularly apparent in case the structural loopholes are settled or decisions within the framework of administrative discretion or judicial discretion are taken, especially applying imprecise or vague concepts, general clauses or resolving or adjudicating dilemmas arising from openness of particular sources of law.

With respect to the EU law, the principles appear to be of crucial importance while defining inter-system relations, determining the content of conflict-of-law directives and while sorting out the problems concerning multilingualism of the texts of the EU law and its conceptual autonomy. In this perspective, multilingual texts of the EU law are only the starting point. The text and its linguistic meaning constitute only an initial guideline, complemented by legal discourse, and therefore the functional (purposive) interpretation, recognised within the doctrine of numerous countries as complementary to interpretation, is acknowledged as an essential and fundamental requirement of the interpretation proceedings under the binding EU law and its application.

**Keywords:** interpretation, EU law, legal text, linguistic meaning, functional interpretation.

## ІНТЕРПРЕТАЦІЯ ПРАВА ЄВРОСОЮЗУ ОРГАНАМИ ДЕРЖАВ. ДОКТРИНА ТА ПРАКТИКА

**Анотація.** Спосіб розуміння права залежить від культури, а також усіх історичних, суспільних, економічних чинників, які формували його розуміння. Переважне, типове для сучасних європейців переконання пов'язує право з текстом — сукупністю різних взаємозалежних та взаємопов'язаних актів, що містять мовні висловлювання, спільною рисою яких є так звана директивність, або ж можливість вираження обов'язку — наказу чи заборони певної поведінки. Тексти, які містять такого роду директивні висловлювання, є формалізованою, зовнішньою формою права — саме тому право зазвичай і ототожнюється з текстами. Згідно з домінуючою на континенті доктриною позитивізму право створюється сувереном (законодавцем) і має тлумачитися так, щоб інтелектуальна робота над текстом відтворювала саме той зміст, який первинно у ньому закладено. За таких умов роль інтерпретатора істотна, але дещо пасивна. Тобто його завдання полягає у декодуванні норм, вміщених у юридичних текстах, за "алгоритмом", метою якого є досягнення повної кореляції та віднайдення порозуміння між відправником і одержувачем повідомлення.

Таке розуміння права, хоч безсумнівно корисне, тісно пов'язане з владою держави і здійснюваним державними організаціями, а точніше — її керівниками, способом реалізації суспільного контролю. Суспільні зміни, обмін досвідом, зустрічі різних культур і доктрин змінили такий образ права. Те, що ми звикли вважати правом, виявляється складнішим і багатоаспектним явищем, центром якого, принаймні у нашому культурному колі, залишається мова і специфічний, притаманний тільки праву, спосіб її використання. Змінюється також і підхід до інтерпретації. У різнорідній дійсності, що динамічно змінюється, завданням інтерпретатора стає надання писаному праву спільного, універсального значення. Доповнення писаного права шляхом мовного аналізу стає природним способом його суспільного функціонування. При мовному аналізі інтерпретація не є вторинною діяльністю відносно тексту, описом чогось даного "ззовні", але об'єднується з текстом, роблячи право "інтерпретаційним буттям".

Функціонування правової системи Європейського Союзу являє собою ілюстративний приклад конституювання, створення права у процесі інтерпретації. Особливе поширення у просторі і специфіка права Євросоюзу виходять за традиційні схеми, визначені певними межами чи якоюсь однією, домінуючою доктриною. Право Євросоюзу, як і сам Євросоюз, є єдністю у багатоманітності, що походить і має своє джерело у розмаїтті культур, практик, інституції, а також етнічних мов. Виклик, пов'язаний з приєднанням до Європейського Союзу наступних держав-учасниць, полягає не тільки у прийнятті спільного правопорядку і пристосуванні до нього національного законодавства, але також і у зміні підходу до права і засвоєнню, не рідко, відмінної від звичної інтерпретаційної практики. Це не легке завдання, тому що, з одного боку, нормативні акти Євросоюзу підлягають інтерпретації у зовсім

іншому системному, мовному або функціональному контексті, а з другого — у кожній правовій культурі діють певні взірці тлумачення, які, природно, використовуються при інтерпретації права Євросоюзу.

Однак право ЄС має настільки багаті генезис та характерні риси, що їх врахування вимагає від інтерпретатора взяття до уваги і проблем, значно складніших, ніж у разі тлумачення текстів національного права. До найважливіших завдань, які також покладаються на державні органи, належить збереження єдності застосування права Євросоюзу. Гарантування єдиного, отже, однакового в усіх державах ЄС, застосування нормативних актів Євросоюзу є основним обов'язком країн-учасниць, що виражається також в єдності результатів тлумачення текстів. Хоч інтерпретаційні практики, що здійснюються національними органами і органами Євросоюзу можуть відрізнятися, однак результати інтерпретації мають бути схожими, навіть й ідентичними. Для виконання таких обов'язків органи або національні суди охоче послуговуються методами і правилами, напрацьованими доктриною Євросоюзу, насамперед — судовою практикою Суду Європейського Союзу (раніше — Європейського Суду справедливості).

Формально рішення, винесені Судом, не є джерелом права, але багато представників доктрини наділяють його таким статусом і визнають його високу роль у формуванні права Євросоюзу. Включення Суду до процесу формування права Євросоюзу на рівні з формальним законодавцем, а іноді і переважаючій позиції, пов'язане з рецепцією традиції, джерелом якої є англосаксонська культура і визнання функціонуючого у цій системі прецеденту де-юре як самостійного джерела права. Роль Європейського Суду усередині національних систем починають переймати і національні суди. Процес уніфікації чи забезпечення відповідності, який називають також гармонізацією, в основному визначається інтерпретаційною практикою, оскільки модифіковане національне законодавство, в контексті вимог права Євросоюзу, підлягає оцінюванню, насамперед з точки зору його застосування, а не формального конструювання. Чинниками, які ускладнюють можливість функціонування спільної інтерпретаційної моделі, є багатомовність текстів права Євросоюзу, а також відмінності у розумінні права, його структури, власності або органів у місцевих культурах.

Виключенню небажаних результатів слугують принципи та інтерпретаційні директиви, що значною мірою реконструюються на основі практики органів Євросоюзу, особливо Суду Справедливості ЄС. Функція принципів у процесі тлумачення права Євросоюзу виявляється, зокрема, у випадках вирішення конструкційних питань або прийняття рішення у рамках визнання в адміністративному порядку або суддівського вільного розсуду (дискреції), зокрема, застосування невизначених понять, загальних понять або вирішення дилем, що виникли через існування відкритого переліку джерел права.

У праві Євросоюзу принципи відіграють ключову роль у визначенні міжсистемних співвідношень, визначаючи зміст колізійних директив та вирішення проблем, пов'язаних з багатомовністю текстів права Євросоюзу і його

автономністю понять. У цій перспективі багатомовні тексти права Євросоюзу є тільки початком нового "шляху". Текст і його мовні значення є лише вихідною вказівкою, що доповнюється правничою мовою, і тому функціональне (телеологічне) тлумачення, що визнається в доктрині багатьох країн як доповнення до інтерпретації, у світлі права Євросоюзу і його імплементації визнається необхідною і основною вимогою інтерпретаційної процедури.

**Ключові слова:** інтерпретація, законодавство ЄС, юридичні тексти, мовні тлумачення, функціональне (телеологічне) тлумачення.

## ИНТЕРПРЕТАЦИЯ ПРАВА ЕВРОСОЮЗА ОРГАНАМИ ГОСУДАРСТВ. ДОКТРИНА И ПРАКТИКА

**Аннотация.** Способ понимания права зависит от культуры, а также всех исторических, общественных, экономических факторов, которые формировали его понимание. Подавляющее, типичное для современных европейцев убеждение связывает право с текстом — совокупностью разных взаимозависимых и взаимосвязанных актов, которые содержат речевые высказывания, общей чертой которых является так называемая директивность, или возможность выражения обязанности — приказа или запрета определенного поведения. Тексты, которые содержат такого рода директивные высказывания, являются формализованной, внешней формой права, именно поэтому право обычно и отождествляется с текстами. Согласно доминирующей на континенте доктрине позитивизма право создается сувереном (законодателем) и должно объясняться так, чтобы интеллектуальная работа над текстом воспроизводила именно то содержание, которое было заложено в нем изначально. При таких условиях роль интерпретатора существенна, но несколько пассивна. То есть его задание заключается в декодировании содержащихся в юридических текстах норм согласно "алгоритму", целью которого является достижение полной корреляции и поиска понимания между отправителем и получателем сообщения.

Такое понимание права, хотя, несомненно, полезное, тесно связано с властью государства и осуществляемым государственными организациями, а точнее ее руководителями, способом реализации общественного контроля. Общественные изменения, обмен опытом, встречи разных культур и доктрин изменили такой образ права. То, что мы привыкли считать правом, оказывается более сложным и многоаспектным явлением, центром которого, по крайней мере, в нашем культурном кругу, остается язык и специфический, присущий только праву, способ его использования. Изменяется также и подход к интерпретации. В разнородной и динамично развивающейся действительности заданием интерпретатора становится придание писаному праву общего, универсального значения. Дополнение писаного права путем языкового анализа становится естественным способом его общественного функционирования. При языковом анализе интерпретация не является вторичной деятельностью относительно текста, описанием чего-то данного "извне", здесь она объединяется с текстом, делая право "интерпретационным бытием".

Функционирование правовой системы Европейского Союза представляет собой иллюстративный пример конституирования, создания права в процессе интерпретации. Особенное распределение в пространстве и специфика права Евросоюза выходят за традиционные рамки, ограниченные определенными пределами или какой-то одной, доминирующей доктриной. Право Евросоюза, как и сам Евросоюз, является единством в разнообразии, происходящим из разнообразия культур, практик, учреждений, а также этнических языков. Вызов, связанный с присоединением к Европейскому Союзу следующих государств-участников, заключается не только в принятии общего правопорядка и приспособлении к нему национального законодательства, но также и в изменении подхода к праву и усвоению, не редко, отличающейся от привычной интерпретационной практики. Это не легкое задание, потому что, с одной стороны, нормативные акты Евросоюза подлежат интерпретации в совсем другом системном, языковом или функциональном контексте, а с другой — в каждой правовой культуре действуют определенные образцы толкования, которые, естественно, используются при интерпретации права Евросоюза.

Однако право ЕС имеет настолько богатый генезис и характерные черты, что их учет требует от интерпретатора принятия во внимание и проблем значительно сложнее, чем в случае толкования текстов национального права. К важнейшим заданиям, которые также возлагаются на государственные органы, относится сохранение единства применения права Евросоюза. Гарантия единого, следовательно, одинакового во всех государствах ЕС применения нормативных актов Евросоюза является основной обязанностью стран-участниц, которая выражается также в единстве результатов толкования текстов. И хотя интерпретационные практики, которые осуществляются национальными органами и органами Евросоюза могут отличаться, то результаты интерпретации должны быть похожими, даже идентичными. Для выполнения таких обязанностей органы или национальные суды охотно пользуются методами и правилами, наработанными доктриной Евросоюза, прежде всего — судебной практикой Суда Европейского Союза (раньше — Европейского Суда справедливости).

Формально решения, вынесенные Судом, не являются источником права, но многие представители доктрины наделяют его таким статусом, а все признают его высокую роль в формировании права Евросоюза. Включение Суда в процесс формирования права Евросоюза наравне с формальным законодателем, а иногда и его доминирующей позиции, связано с рецепцией традиции, источником которой является англосакская культура и признание функционирующего в этой системе прецедента де-юре, как самостоятельного источника права. Роль Европейского Суда внутри национальных систем начинают перенимать и национальные суды. Процесс унификации или обеспечения соответствия, который называют также гармонизацией, в основном определяется интерпретационной практикой, поскольку, модифицированное национальное законодательство, в контексте требований права

Евросоюза, подлежит оценке, прежде всего с точки зрения его применения, а не формального конструирования. Факторами, которые усложняют возможность функционирования общей интерпретационной модели, является многоязычность текстов права Евросоюза, а также отличия в понимании права, его структуры, особенностей или органов в местных культурах.

Исключению нежелательных результатов служат принципы и интерпретационные директивы, которые в значительной мере реконструируются на основе практики органов Евросоюза, особенно Суда Европейского Союза. Функция принципов в процессе толкования права Евросоюза проявляется, в частности, в случаях решения конструкционных вопросов или принятия решения в рамках признания в административном порядке или судейского свободного усмотрения (дискреции), в частности, применение неопределенных понятий, общих понятий или решения дилемм, которые возникли в результате существования открытого перечня источников права.

В праве Евросоюза принципы играют ключевую роль в определении межсистемных соотношений, определяя содержание коллизионных директив и решения проблем, связанных с многоязычностью текстов права Евросоюза и его автономностью понятий. В этой перспективе многоязыковые тексты права Евросоюза являются только началом нового "пути". Текст и его языковые значения являются только исходным указанием, которое дополняется законодательным языком, и поэтому функциональное (телеологическое) толкование, которое признается в доктрине многих стран как дополнение к интерпретации, в свете права Евросоюза и его имплементации признается необходимым и основным требованием интерпретационной процедуры.

**Ключевые слова:** интерпретация, законодательство ЕС, юридические тексты, языковые толкования, функциональное (телеологическое) толкование.

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**Target setting.** The manner of understanding law depends on culture and all the historical, social and economic factors which have been shaping its comprehension. The prevailing belief, typical of contemporary Europeans, associates law with sets of texts containing norms, i.e. statements expressing an obligation aimed at ordering or prohibiting a specific behaviour to the addressees of such statements. The aforementioned statements exemplify a conventional form of law, whereas law itself is usually equated or identified with texts understood as a formalised expression of a sovereign's (legislator's) will.

According to the doctrine of positivism, the most influential doctrine in mainland (continental) Europe, law or legal texts are attributed with objective cognisability. Therefore, written law shall be interpreted as if intellectual work on a text were to reconstruct the sense previously expressed in that text. Taking this convention into account, the role of an interpreter is relevant, though passive. The interpreter's task

involves decoding norms included in legal texts according to a peculiar 'algorithm' the objective of which is to establish a full correlation and understanding between a legislator and an addressee of a particular message. Although the scheme is relatively deeply inscribed in lawyers' routines, it is easily noticeable that such understanding of law is strictly connected with a country's dominion and the manner in which social control is exercised by state organisations, or strictly speaking, by decision-makers.

The doctrine of positivism is still alive. Law regarded as something objectively existing and cognisable, as well as law regarded as an order, an act of obedience to the sovereign's will is still a valid and useful message, also with respect to democratic societies, where the sovereign is an exponent of the will of the entire community or at least the will of the majority. Positive law can be externally expressed in social space, formalised as a pattern or an applicable rule, identical to all individuals and all entities. Comprehending law in this manner results in posing some hazards. Not only are these the most familiar hazards which were discoursed about after the cruel experiences of World War II, but also hazards to the contemporaries. Obviously, we should all respect the timeless and universal value represented by stability and reliability of law. Thus, we call for its readability and clarity of texts, simultaneously demanding that the texts be commonly understood by ourselves and others. Respecting the valid and valuable aspects of positivism, the role of the interpreter cannot be however depreciated by admitting that the aforesaid role is marginal, passive and subordinate to the legislator.

The static image of law has been revised by social changes, exchange of experience, as well as encounters of disparate cultures and doctrines. What used to be considered as law appears to be a more complex and multifaceted phenomenon, whose centre point is still the language and specific manner, characteristic of law only, in which the language is used. Reference to a text, its analysis and comprehension of a message — what is called the process of interpretation or application of a legal text involves assigning a proper and adequate meaning to law. As a matter of fact, interpretation has always been associated with texts. Interpretation accompanied appearance of liturgical texts, literary texts, and eventually legal texts. At first, in the form of something individual — a reflection, an act of understanding, a reference to an individual character of the (written) word; with the passing of time, interpretation became a usus, social practice, professional practice or institutional practice.

Let us have a look at the practice — the contexts of law application. It will require little effort to discern that the more extensive, the richer and the more complex the text is, the more the role and result of interpretation is exposed. What are the young trainees or supporters of the traditional concept of legal positivism, who are simultaneously witnessing convergence of legal cultures, already familiar with? One of the first experiences is specifically related to the growing role of interpreters.

It is attributing texts with common and universal meaning by means of individual and creative acts of interpretation which is becoming their fun-

damental task within the dynamically changing environment.

This emphasis appears to be of major importance as it defies the understanding of law which has already been developed in numerous cultures due to various reasons: most frequently political or ideological reasons. In fact, it is the actual divergences of opinions, where a ratio decidendi choice (the rationale for the decision) is the consequence of decision-makers' games and interests, which are hidden under the guise of the objectivity of understanding. Instead of perpetuating the myth concerning objectivity of law-making, it must be therefore ensured that the social and institutional mechanisms by means of which written law acquires its meaning meet the criteria of common acceptability, i.e. they shall be democratic and transparent, they shall be subject to criticism and all other conditions to be fulfilled by practical discourse. Complementing of written law by discourse is becoming a natural method of its social functioning. As far as discourse is concerned, interpretation is not an activity of secondary importance towards the text, a description of something delivered from 'the outside'; on the contrary, interpretation bonds together with the text, thereby turning law into 'an interpretive being'. Interpreters, and primarily lawyers as actual author or creators of social practice, are becoming responsible for the final content of law.

The hermeneutical perspective results in negating the thesis about a derivative (or passive) role of lawyers, especially judges, as an impersonal 'transmitter' of the sovereign's will. On the other hand, the perspective reveals their individual and simultaneously collective impact upon social practice and obliges to active operation in the name of common good. It was observed a long time ago (which is acknowledged even by positivists) that the ethical requirements formulated towards the participants of legal discourse are equally or even more weighty than the interpretive patterns or principles and the manners of their application (the interpretation doctrine). The ethical dimension of discourse, whose relevant or simply crucial element is interpretation, refers particularly to entities having capability for binding by means of the interpretation result — tribunals, courts or public authorities. The aspects which are to be discussed below are largely their output, co-created, commented or complemented by the doctrine.

The EU law is a specific example of forming law within the process of interpretation. The space and specificity of the EU law, in fact, go beyond traditional schemes, demarcated by boundaries and determined by one predominant doctrine. As a matter of fact, similarly to the European Union, the EU law is unity in multiplicity, originating from and clutched in diversity of cultures, practices, institutions and ethnic languages.

The EU law is characterised by peculiar sources and systematics which substantially diverges from the hierarchical and monocentric legislation typical of the mainland (continental) countries. It is worth reminding the essential normative features of this system. The basic and most frequently quoted attribute is division into primary law and derivative law (secondary law). Primary law originates from the founding treaties (currently the Treaty on European Union and the Treaty on the Functioning

of the European Union), the accession treaties, along with their amendments.

Basing on the provisions of the Treaty of Lisbon, i.e. an act of primary law, the sources of derivative law are legislative acts (regulations, directives and decisions), adopted by means of an ordinary legislative procedure or a specific legislative procedure and non-legislative acts (opinions, recommendations, delegated acts and implementing acts), supplementing or amending elements of a legislative act (Art. 288–289 of the Treaty on the Functioning of the European Union).

Regulations are general and abstract acts issued by the authorities/bodies of the European Union, the character of which is normative and complete at the same time. A regulation is of directly binding nature and is applicable in all Member States, becoming an integral part of their legal order without the necessity of being implemented.

Directives are normative acts which have no equivalent in national law. Directives are binding on each Member State to which they are addressed; nevertheless, they provide the national authorities with freedom of choice with respect to the form and execution measures indicated in the directive. Furthermore, directives are acts addressed to the Member States, and not directly to the authorities, bodies or citizens. A member state is obliged to transpose a directive in such a manner that all objectives indicated in the directive be uniformly and completely accomplished. In the event of failure to perform transposition or improper performance of transposition, the content of the directive shall be a pattern applied to examine its compliance with national law and situation of EU citizens (the principles of primacy, unity, proximity and effectiveness of the Community law). A particular member state shall be responsible for failure to perform or improper performance of the directive. The sources of derivative law, however on certain conditions, include also other acts, particularly the so-called implementing decisions. In general, the decisions are not treated as commonly applicable law. Yet, in specific cases the content of the acts is binding to individually defined addressees (a decision indicating an addressee, an implementing decision). An implementing decision may however directly confer rights or impose obligations on individuals (natural persons or legal persons) or oblige a member state to issue a specific normative act [12].

The EU law is a complex system, connected by a network of competence relations, institutional relations and functional relations. The system is characterised by huge dynamics and adaptability. Taking the complex and diversified functioning of the sources of law and multitude of legislative entities into account, it is difficult to talk about a distinct border between legislation and application of the acts of the EU law and their interpretation. This is well-illustrated by the example of the so-called soft law, the phenomenon with which primarily the countries characterised by a classic and already a bit archaic constitutional doctrine struggle. The acts being part of soft law, e. g. resolutions, recommendations and opinions are not recognised within the doctrine as commonly binding acts, but they significantly influence application of primary law or derivative law due to the fact that they contain guidance relevant

to the result of interpretation, and what is most important, the guidance which is binding. It is however highlighted that national authorities/bodies shall take their content into consideration while drawing up or interpreting the national legislation referring to or arising from the EU law [11].

This kind of institutional interpretation exercised by the EU authorities is only one of the examples concerning transition vagueness, using traditional conceptual apparatus of positivism, from law-making to law application, from drawing up a text to its interpretation. Another example, apparently the most representative one, concerns the role of interpretation made by the EU courts and tribunals. Although the case-law of the Court of Justice of the European Union (formerly the European Court of Justice) is not a source of law on a formal basis, numerous representatives of the doctrine tend to grant such a status to the Court of Justice, whereas all of those representatives recognise its prominent role in shaping of the EU law. In accordance with the commonly accepted doctrine, primary law covers general principles of the EU law, which were mostly developed or at least emphasised or systematised by the Court of Justice.

Incorporation of the Court of Justice of the European Union to the process of shaping the EU law at the level equal, and sometimes even exceeding, the position of a formal legislator is linked with reception of the tradition originating from the Anglo-Saxon culture and recognition of a *de iure* precedent, operating within the common law system, as an autonomous source of law. The norms expressed in settlement of such a precedent are the norms commonly applicable within a particular system. Therefore, violation of such norms is recognised as violation of law to the same extent as violation of formally established law. Furthermore, also courts and national authorities are entitled to occupy a specific position in reception and co-shaping of the EU law in relation to application of national law, as well as in assigning new meanings to national law. The phenomenon referred to as harmonisation is largely determined by the interpretation practice since new or modified national legislation, within the context of the requirements imposed by the EU law, is subject to assessment primarily in respect of its application rather than its formal structure.

**Analysis of recent research and publications.** The difficulty which the founders of united Europe had to face since the very beginning was how to ensure full effectiveness and functionality of the EU legal system within entire Community. The challenge related to accession of new Member States to the European Union involves not only adopting a common legal order and aligning national law, but it is also connected with a change in the approach to law and adopting an interpretation practice, which is frequently different from the currently applicable one. It is not an easy task since on the one hand, the EU normative acts are construed within a different system context, linguistic context or functional context, and on the other hand, some patterns of interpretation, which are applied to interpret the EU law in a natural manner, tend to operate in each legal culture. Nonetheless, the genesis and charac-

teristics of the EU law are so rich that taking them into consideration requires that the interpreter should confront problems which are much more complex than in the case of interpreting texts concerning national law. Numerous genetic, economic, political, social, functional and praxeological arguments weigh in favour of the necessity of uniform (consistent) interpretation of the EU law. The most significant argument is of normative nature and is supported by primary law and its system-based principles. Ensuring that uniform (i.e. identical with respect to all Member States of the European Union) EU normative or legislative acts are duly applied is therefore a basic obligation of the Member States, which is additionally expressed in uniformity of the results concerning interpretation of legal texts [1]. Although the interpretation practices executed by the EU authorities/bodies or national authorities may vary, the results of the aforementioned interpretations should be similar or even identical. The EU doctrine does not demand that national authorities apply the same interpretation methods and principles which are applied by the EU authorities/bodies or courts, but unity (consistency) of the interpretation results is required. This assumption displays pragmatics determined by efficiency (effectiveness) concerning the results of the interpretation practice in each member state, which is assessed basing on the level of implementation of the axioms related to the EU law. The measure of the harmonisation level, i.e. implementation of the system principles concerning the EU law, is therefore the final effect of interpretation and its uniform 'translation' into settlement of a particular case [10]. National authorities or national courts are willing to apply the methods and principles developed within the framework of the European Union doctrine, primarily through the case-law of the Court of Justice of the European Union, in order to fulfil the aforementioned obligations. The interpretation patterns and practice of the Court of Justice is spreading within national doctrines and in some sense supplanting or modifying local paradigms. Despite being relatively significant, the differences are not however a complete novelty since they arise out of similarity concerning the origin, output and achievements of the European legal cultures. Similar types of interpretation directives are distinguished within the doctrine of national law and numerous member states: linguistic interpretation, system interpretation and functional (purposive) interpretation [29].

A similar situation occurs in national concepts: linguistic interpretation is understood as perception of expressions included in legal texts, being in conformity with lexical (dictionary) or definition principles and meanings of the language, whereas the aspect of interpretation is specified as 'ordinary meaning' in the case-law practice of the Court of Justice of the European Union [13]. System interpretation is also understood equally or in a similar manner, encompassing application of system directives, i.e. establishment of relations and potential conflict of the interpreted provisions with superior or higher-ranking provisions.

**The purpose of the article** is the studies into changes within national doctrines of new member states, that

indicate symptoms of change in the paradigm.

**The statement of basic materials.** Namely, the 'objectivising' interpretation, particularly typical of legal positivism in the countries of Eastern Europe, consisting in searching for a meaning which corresponds as strictly as possible to the sovereign's (legislator's) will, encoded in a legal text is replaced by discourse of interpreting entities. Establishment of a content-related (linguistic) meaning of particular phrases or expressions of a text and formal relations of norms within the framework of a hierarchically ordered legal system are not so exposed or so clear anymore because they are not sufficient to sort out the interpretation problems. Consequently, references to the interpretation practice of the institutions set up to settle cases on a binding manner or determine commonly accepted interpretation patterns tend to appear instead. Specificity of the EU law, its openness and anchoring in the discursive current 'enforce' redefinition of national methods concerning interpretation of legal acts as referring to linguistic wording only does not provide appropriate or unambiguous solutions in many cases. Thus, it is the functional interpretation, recognised within the doctrine of numerous countries as complementary to interpretation, which is acknowledged as an essential and fundamental requirement of the interpretation proceedings under the applicable EU law and its application.

The EU-related nature of a case to be settled by a member state authority imposes an obligation of interpreting law in accordance with the EU law. The operational interpretation of the EU law by national authorities and courts is executed in two standard situations. The former context occurs when a given case falls within application of a provision stipulated by the system of the EU law only, and simultaneously does not fall within application of a national law provision. A task of a national authority or court consists in applying, and thereby also interpreting a provision of the EU law, without any reference to national law. In such a case, upon establishing exclusivity of the EU law regulation and upon declaring no conflict with national law, further interpretation actions are undertaken only in relation to texts of the EU law.

The latter possibility takes place when settlement of a given case requires that the EU law and national law be applied. In such a case, it is necessary to define mutual relations of clashing legal acts and subsequently to apply, in accordance with the adopted system principles, relevant conflict-of-rules directives: elimination directives (e.g. the principle of primacy or the principle of direct effect) or corrective directives (e.g. the principle of conforming interpretation).

Two variants are available in this case: the EU law directly regulates particular factual circumstances, events or legal relationships ('the integration model) or the EU law stipulates only objectives and principles of legislation, providing the national legislator with some freedom in respect of selecting legal measures for accomplishment of the objectives or principles (the harmonisation model). Therefore, the manner in which the conflict is to be settled depends on hierarchy and types of legal

acts where the interpreted provisions being in conflict are included.

The content-based differences of conflict-of-law rules arise also from types of legislative acts of the European Union. In the event of an act of direct effectiveness (e.g. regulation), conflict-of-law rules come down to demand that the national law provisions contrary to or non-compliant with the act be eliminated. In the event of acts requiring transposition (e.g. directives), determination of the area of conflict is a much more challenging task both if a particular act has been transposed by the applicable national regulation and if such a national 'equivalent' does not exist.

The difficulty of recognising and solving conflict-of-law situations is intensifying when a national legislator (which occurs relatively frequently) introduces normative acts somehow 'implementing' the EU acts of common and direct effect (e.g. regulations) to an internal system (*a national legislator shall not introduce national provisions covering matters stipulated by the European Union regulations unless a particular regulation introduces such authorisation or establishment of national provisions is necessary in order to ensure effectiveness of such a regulation*.)

In spite of numerous differences, occurring particularly in the countries of Eastern Europe, designation and systematisation of the course of the interpretation process is possible. First of all, the basis of each democratic legal system allows for distinguishing a common catalogue of general and system principles which are applied with respect to interpretation. The specificity concerning interpretation of the EU law, arising from its multilingualism, pragmatics, genesis, functions and objectives, results in peculiar interpretation directives and in attributing the leading role in interpretation of the EU law to the Court of Justice of the European Union.

Assigning exclusive competence in respect of preliminary ruling regarding the EU law to the Court of Justice of the European Union is aimed at ensuring uniformity of its interpretation and applying interpretation in all member states and is applied in the situations when provisions of the EU law are essential to settle cases by national courts [14]. Pursuant to Article 267, par. 2 of the Treaty on the Functioning of the European Union, a national court may apply for a preliminary ruling in the event that interpretation of the Treaties or settlement on validity or interpretation of derivative law acts is deemed necessary in order to make a judgment or ruling. The aforementioned provision states that evaluation of such necessity, within the context of factual circumstances and legal situation, shall be at the sole and exclusive discretion of the national court [15].

The group of entities authorised to present a preliminary ruling is restricted. The competences for referring a preliminary ruling shall be granted only to such authorities/bodies of the member state which can be qualified as 'court' within the meaning of Article 267 of the Treaty on the Functioning of the European Union, i.e. authorities/bodies which are independent in the sense that they are a third party in relation to the public administration authority which has issued the contested decision [16].

It is assumed that interpretation issued by the Court of Justice of the European Union is not of commonly

applicable nature. Such interpretation shall be binding only for the court which referred a preliminary ruling and other courts which, in the future, may pass judgments in the case to which the preliminary ruling was related. Nonetheless, the Court of Justice and the doctrine allow the same national court or another court adjudicating in the same case in the same legal proceeding to re-apply for passing a preliminary ruling should any doubts regarding understanding of the previous judgment of the Court of Justice of the European Union arise or should new circumstances or arguments not raised in the previous application affect the result of interpretation [28].

However, a conviction about prevalence concerning the effect of interpretation made by the Court of Justice of the European Union has become established in the practice of numerous national courts and authorities, which means that exercising the competence regarding interpretation by the Court of Justice of the European Union is a *de iure* precedent defining universal understanding of the content of a particular provision of the EU law. Such a practice is also approved by the Court of Justice of the European Union itself, referring to previous judgments in its subsequent judgments or refusing to issue a preliminary ruling due to its previous judgments, and in some cases recognising even omission of its own judgment as infringement of the EU law [17].

The concept of procedural autonomy of the Member States dates back to the beginning of the functioning of the European Community. The sense of the concept comes down to preventing a situation in which the rights originating from the EU law would be deprived of proper legal protection due to lack of a specific EU procedural measure. The name of the principle is at the same time misleading as the point is that national law should serve to define procedures and measures ensuring protection of the rights granted to individuals by the EU law.

The principle of procedural autonomy does not have one clear definition. What is more, it does not have a status of a general principle of the EU law, being rather a standard to apply the EU law by the Member States [5]. As far as the early case-law of the Court of Justice is concerned, the guidance on the manner in which the Member States should ensure protection of the rights derived by individuals from the EU law was of a general nature and was mostly restricted to indication of applicability of national law while specifying relevant procedures for redress based on the EU law [18].

The principle of procedural autonomy is best illustrated by the position of the Court of Justice of the European Union expressed in the judgment concerning the case of *Rewe*, in which the Court of Justice declared that the purpose of the Treaty was not to establish new measures to be applied before national courts in order to ensure observance of the EU law other than the measures which had already existed in national law. According to the Court of Justice, 'the system of legal protection as set out in Article 177 in particular (currently Article 267 of the Treaty on the Functioning of the European Union) implies that it must be possible for every type of action provided for by national law to be available for

the purpose of ensuring observance of Community provisions having direct effect on the same conditions concerning the admissibility and procedure as would apply were it a question of ensuring observance of national law' [19]. Such understanding of the principle of procedural autonomy, as a property of national law to determine procedural rules and relevant procedural measures aimed at protection of the rights originated by individuals from the EU law in the absence of relevant provisions of the EU law, remains valid also in the latest case-law of the Court of Justice of the European Union [20].

On the one hand, the principle of procedural autonomy allows the Member States to independently lay down procedures and legal remedies. On the other hand, the aforementioned principle guarantees effectiveness of the EU law by obliging the Member States to ensure within their own legal order an effective remedy to protect the rights derived by individuals from the EU law. Procedural autonomy of the Member States does not equate to freedom in shaping national procedures. The case-law of the Court of Justice imposes restrictions on applying the principle of procedural autonomy which the Court of Justice infers from the Treaty principles, such as the principle of sincere co-operation of the Member States and the principle of effective legal protection (Article 4, par. 3 of the Treaty on European Union; Article 19 of the Treaty on European Union).

Thus, freedom of the Member States in regulating national procedures and measures is not unrestricted. As a matter of fact, the adopted national measures must meet the requirements stipulated by the EU law, in particular the requirements arising from the principle of effectiveness and the principle of equivalence.

While examining compliance of procedural measures adopted by a member state, it is also necessary to provide for other regulations of the EU law. It is responsibility of national courts to carry out a relevant evaluation in this respect. Such an evaluation is aimed at eliminating a situation in which national provisions do not ensure a proper standard of protection in respect of the rights originated by individuals from the EU law and consequently are in contradiction with the obligation of ensuring effectiveness of the EU law.

As seen above, interpretation of the EU law and national law executed by courts and authorities/bodies of the Member States and related to use of functional arguments and directives aimed at ensuring communication of various legal systems and preventing from conflict between such legal systems are of crucial importance for proper functioning of this concept, originated from or based on the axioms of the EU law. The most significant of those principles are to be discussed below.

The factors which hinder and restrict common and uninterrupted functioning of the EU law include multilingualism of the texts concerning the EU law, as well as the differences in understanding law, its structure, its properties or its institutions in local cultures. System directives based on axiology of the EU law are aimed at eliminating the undesirable results and resolving conflicts between the EU provisions and national provisions.

With respect to the EU law, the principles appear to be of utmost importance while defining inter-system relations, determining the content of conflict-of-law directives, and while sorting out the problems concerning multilingualism of the texts of the EU law and its conceptual autonomy. Majority of general and system principles of the EU law, including those expressed in the Treaties (*ince the time when the Treaty of Lisbon entered into force, the basic catalogue of principles has also been covered by the Charter of Fundamental Rights of the European Union, which, pursuant to Article 6, par. 1 of the Treaty on European Union, is a document of equal status to the founding treaties*) are derived from legal cultures and constitutional orders of the Member States or from the acts of international law [21]. The case-law of the Court of Justice of the European Union has also considerably contributed to distinguish such principles and determine their status within the system of the EU law. The principles include, in particular the following: the principle of freedom, the principle of equality, the principle of pluralism, the principle of non-discrimination, the principle of tolerance, the principle of equity and solidarity, the principle of non-retroactivity, as well as the catalogue of the principles defined as procedural fairness standards and many others.

Furthermore, the principles establishing relation of the EU law towards other normative systems, which are primarily applicable in conflict-of-law cases, have also been formed and developed within the framework of the European Union law. As far as the aforesaid principles are concerned, the following ones must be considered as the most relevant from the perspective of maintaining coherence and uniformity in respect of applying the EU law:

1) the principle of autonomy of the EU law,

2) the principle of effectiveness of the EU law,

3) the principle of direct effect of the EU law,

4) the principle of uniformity of the EU law,

5) the principle of legal certainty of the EU law,

6) the principle of pro-EU interpretation [8].

A detailed presentation of the content and functions of the aforesaid principles must be avoided due to space limitations; however, it is worth reminding the most significant issues. The principle of primacy (supremacy) establishes a system-based relation between the EU law and legislation of the Member States. The principle is a conflict-of-rules directive pursuant to which, in the event of incompatibility of the EU law and national law, the EU law shall prevail, which results in the fact that a national court or authority shall refrain from applying non-compliant provisions of national law [22].

The principle of effectiveness is understood as an order for accomplishing the objectives and values of the EU law to the highest possible extent. In accordance with the principle, the task of a national authority or court, in respect of each conflict-of-law situation arising out of application of the EU law, is to establish the objectives or values stipulated under the European Union provisions, and subsequently to indicate that the result of interpretation adopted in a particular case is the most effective

method for accomplishing such objectives or values. Therefore, the content of the principle determines the result of interpretation, thereby making the functional directives (arguments) a basic and simultaneously essential element of the interpretive proceedings.

The principle of direct effect is based on the assumptions that law is applied directly in each of the Member States and remains effective towards the institutions, legal entities and citizens of each Member State should the provisions of the EU law satisfy the conditions of clarity and unconditionality [23]. In such a case, undertaking legislative measures within the framework of legislation of the Member States is not necessary. The principle is of vital importance while evaluating the level concerning accomplishment of the objectives and values of the EU law transposed by national law. Moreover, the principle may be applied in the event that the directives or other acts of indirect effect concerning the EU law have not been implemented.

The content of the principle of uniform application of the EU law provides for recognition that the EU law shall be entirely and consistently applied in each of the Member States. The principle of legal certainty of the EU law, in turn, requires that the texts of the EU law be formulated and therefore interpreted in a manner allowing for precise understanding of the behaviour demanded or prohibited in respect of their addressees [6]. The requirement of certainty shall be particularly observed in respect of a regulation imposing duties or providing for sanctions towards entities or individuals for failure to perform their obligations or improper performance of their obligations.

The principle of pro-EU interpretation (also referred to as the conforming interpretation) refers to national law. The principle, derived from the general obligation to observe the EU law by the Member States [7], takes the form of directive requiring that authorities and courts of the Member States make interpretations 'in accordance with the law of the European Union insofar as it is possible' [24]. It is indicated that the principle of conforming interpretation is applied not only in the context of discretionary power, but also in relation to a standard interpretation procedure. Additionally, the principle may be subject to restrictions only if its results were to infringe the basic rules of the EU law or national constitutions, e.g. the principle of legal certainty or the principle of non-retroactivity [25].

The principle of conforming interpretation was developed in relation to national law enforcing the EU law and is emanation of the principle of effectiveness in this respect. Not only is it necessary to find a specific standard in the EU law in order that the principle can be ensured, but also to reconstruct the context, objective and function of a particular regulation. Therefore, similarly to other principles, ensuring conformity between national law and the EU law within the process of applying law by national authorities and courts requires that non-linguistic directives (functional directives and system directives) be used.

Validity and application of the aforementioned principles gains in importance due to the adopted model of development of the EU law in each of

the official languages of the European Union [2]. The following three system-based interpretation principles of the EU law are subordinated to this specificity:

• the principle of uniform interpretation,

• the principle of autonomous interpretation,

• the principle of equal authenticity of all language versions.

Observance of the first principle is necessary so that the common objectives and values would be equally implemented in each of the Member States. The doctrine of the EU law developed the second principle, assuming that reference to conceptual autonomy of the EU law shall be the best measure to ensure uniformity related to understanding and application of the EU law due to lexical, semantic and pragmatic differences regarding the languages of the Member States.

The principle of autonomous interpretation requires that the expressions, phrases and terms included in texts of the EU law be given a specific, and simultaneously universal, meaning which is not to be associated with any meanings operating in national legal systems. The distinction is expressly exposed and emphasised by the Court of Justice of the European Union, starting from the case of Costa, which includes a fundamental statement stipulating that despite being part of the legal systems of the Member States, the EU law shall remain autonomous in relation to those systems [26].

Nonetheless, the practice concerning interpretation allows for some relativisation of the principle as its absolute observance does not seem to be possible. Therefore, the point is that the principle should be an optimising interpretation pattern to be pursued by the interpreter while seeking for adequate and universal comprehension of the text. It is highlighted that an authority (court) should be convinced that the result of such interpretation would be similar or even identical if the case were to be decided upon by an authority of another Member State or by the Court of Justice of the European Union [27].

The principle of equal authenticity of texts concerning the EU law is based on the concept of original texts recognising that all language versions of an EU legislation act are original versions. The principle extends across all texts derived from translations of the language versions applicable prior to accession of new member states to the European Union.

The principle of equal authenticity of all language versions in relation to an EU legislation act is understood in two ways. The former one specifies that, pursuant to the principle of equality, if no language version takes precedence or gains any other advantage, then basing interpretation upon one version only shall be permissible. The latter position, which appears to be more justified, states that all authentic language versions taken together shall establish the meaning of expressions and phrases set out in an EU legislation act [3].

However, execution of the principle of equal authenticity understood in such a manner would require that the interpreter possess and demonstrate outstanding linguistic competences or be supported by translators or interpreters. Moreover, it is difficult to expect that all addressees of legal provi-

sions, the citizens of the Member States in particular, will use all or even some language versions of the EU legislative acts in parallel [9]. As a consequence, special responsibility for implementation of the principle of equal authenticity rests with courts and authorities of the Member States. Practice suggests adopting a compromise solution in this context, whereby the principle should not be understood as a requirement for comparing all language versions, but rather as a prohibition on rejecting any of those versions, particularly in the cases where differences in meaning (semantic differences) have been revealed during linguistic interpretation of the text [4].

The phenomenon of linguistic specialisation must be noted while discussing the issues associated with application of the interpretation principles regarding texts of the EU law. Genesis of the EU legal texts, particularly their incorporation in economic bases of functioning of the European Union results in the fact that economics-related or politics-related arguments play a prominent role in interpretation, which inevitably entails specialisation of the language and preference for specialised terminology in accordance with the rule demanding adoption of such a meaning of a particular term which corresponds to a particular field of law (knowledge).

**Conclusions.** Carrying out an analysis of judicial decisions taken by national courts and authorities in respect of compliance with the aforesaid principles appears to be a labour-intensive and complex task. It is even hardly imaginable that one researcher or scholar could manage to fulfil this task. Such studies seem not to have been carried out within the entire area of application of the EU law. Nevertheless, there are some partial (fragmentary) studies and, having access to such data, my intention is to refer to such partial studies. Their suitability and usefulness is obviously to be subject to verification; yet, some similarities between our systems, as well as the joint historical experience allow for presuming that the studies can be treated as comparative materials. In fact, the studies on the case-law of administrative courts which were conducted basing on the source materials derived from the ten-year period of Polish membership in the European Union allowed us to make some generalisations. First of all, we were able to notice that the practice of national courts corresponds with the interpretation practice of the Court of Justice of the European Union [4]. Following the EU doctrine, the Polish courts emphasise the necessity to verify the linguistic meaning of a provision by applying system-based directives or functional directives.

Similarly, using the principles, primarily the treaty principles, characteristic of the judgments of the Court of Justice of the European Union, can be more and more frequently found in the notions of administrative courts. The standpoint of the Polish judicature is an inherent part of the harmonisation axioms, arguing that the interpretation patterns formulated by the Court of Justice of the European Union and applied by national courts are becoming more and more convergent in this respect [4].

Adjudication of the Polish administrative courts provides numerous examples of applying the directives of uniform interpretation, directives of

conforming interpretation, directives of effective interpretation, directives of primacy and directives requiring comparison of various language versions of a particular act, as well as functional directives referring to the principles and objectives of the EU law, or even European law and international law. A change in the attitude to the text is also reflected in references to the preambles of the EU legal texts.

On the other hand, as is indirectly shown by the judgments analysed above, administrative authorities accustomed to legitimist, i.e. text-based, application of law use the interpretation doctrine of the EU law to a much lesser extent, which undoubtedly results in the fact that an obligation to act for improving this state of affairs is imposed on national courts.

Specificity of the interpretation situation regarding the EU law is reflected in formal and substantive requirements laid down in relation to justifications of interpretation decisions. In fact, the interpreter is required to reveal and consider the entirety of reasons and partial decisions applied in a particular case, quoting all relevant linguistic and non-linguistic arguments to support the result of interpretation, which makes interpretation an essential and distinctive feature of the argumentative law model. It is the change in the interpretation model that distinguishes the harmonisation process of legal systems, affecting also beyond the area of validity and application of the EU law.

## REFERENCES


1. *Barents R.*, The Autonomy of Community Law, the Hague, T. Schilling, The Autonomy of the Community Legal Order: An Analysis of Possible Foundations, Harvard International Law Journal. — 1996. — Vol. 37. — 2004. — 389–409 p.
2. *Doczekalska A.* Interpretacja wielojęzycznego prawa Unii Europejskiej (‘Interpretation of the Multilingual European Union Law’), EPS 2006, No. 6, also S. Šarčević, New Approach to Legal Translation, Kluwer Law International 2000.
3. *Doczekalska A.* Drafting and interpretation of EU law — paradoxes of legal multilingualism, in: G. Grewendorf, M. Rathert (editor) Formal Linguistics and Law, Berlin 2009, p. 344 et seq.; M. Derlén, In defence of (limited) multilingualism: problems and possibilities of the multilingual interpretation of European Union law in national courts, [in:] Linguistic Diversity and European Democracy, A. L. Kjaer, S. Adamo (editor), Ashgate, 2011. — 144 p.
4. *Doczekalska A., Jaśkiewicz J.*, Wykładnia aktów wielojęzycznego prawa pochodnego Unii Europejskiej przez polskie sądy administracyjne (‘Interpretation of multilingual derivative law of the European Union by the Polish administrative courts’), №. 5, ZNSA. — 2014. — 73 p, 74–75 p.
5. *Domańska M* [in:] A. Wróbel [editor] ‘Stosowanie prawa Unii Europejskiej przez sądy’ (‘Application of the European Union law by courts) — Vol. II, Warsaw, 2007. — 327 p.
6. *Helios J.* Pojmowanie wykładni prawa europejskiego w orzecznictwie ETS (‘Understanding Interpretation of the European Union Law in the case-law of the Court of Justice of the European Union’), № 2424, Acta UWr. — 2002. — 117 p.
7. *Mik C.* Wykładnia zgodna prawa krajowego z prawem Unii Europejskiej (‘Interpretation of National Law in

Conformity with the European Union Law') [in:] Polska kultura prawna a proces integracji europejskiej ('The Polish Legal Culture vs. Process of the European Integration'), editor: S. Wronkowska, Kraków, 2005. — 122 p.
8. *Nowak-Far A.* 'Jednolitość prawa unijnego a jego wielojęzyczność' ('Uniformity of the European Union law vs. its multilingualism') [in:] 'Unia Europejska: zjednoczeni w różnorodności' ('The European Union: united in diversity'), editor: C. Mik, Warsaw, 2012. — 77 p.
9. *Phillipson R.* English-Only Europe? Challenging Language Policy, London and New York: Routledge 2003.
10. *The judgment* of the Court of Justice of the European Union of 5 October 2004, case C-397-403/01 — Bernhard Pfeiffer and others.
11. *The judgments* of the Court of Justice of the European Union of 13 December 1989, case C-322/88 — Grimaldi; and of 11 September 2003, case C-207/01 — Altair Chimica SpA.
12. *The judgments* of the Court of Justice of the European Union of 6 October 1970, case 9/70 — Franz Grad; of 21 May 1987, case 249/85 — Albako BALM; of 21 May 1987, joined cases C-133/85 — Rau and others; and of 10 November 1992, case C-156/91 — Hansa Fleisch Ernst Mundt GmbH & Co. KG.
13. *The judgment* of the Court of Justice of the European Union of 3 October 2000, case C-380/98 — the University of Cambridge.
14. *The judgments* of the Court of Justice of the European Union of 1 July 2010, case C-393/08 — Sbarigia; of 7 July 2011, case C-310/10 — Ministerul Justiției & Libertăților Cetățeneti; and of 15 September 2011, case C-197/10 — Unió de Pagesos de Catalunya.
15. *The judgment* of the Court of Justice of the European Union of 26 May 2011, case C-165/09 — Stichting Natuur en Milieu.
16. *The judgment* of the Court of Justice of the European Union of 19 December 2012, case C-363/11 — Epitropos tou Elegktikou Synedriou sto Ypourgeio Politismou kai Tourismou.
17. *The judgment* of the Court of Justice of the European Union of 30 September 2003, case C-224/01 — Köbler vs. Austria.
18. *The judgments* of the Court of Justice of the European Union in the case of Humblet, 6/60 and in the case of Salgoil, 13/68.
19. *The judgment* of the Court of Justice of the European Union, case C-158/80 — Rewe, clause 44.
20. *The judgments* of the Court of Justice of the European Union: in the case of Bashir Mohamed Ali Mahdi, C-146/14 PPU, clause 50; in the case of ERSTE Bank Hungary Zrt., C-32/14; in the case of CA Consumer Finance SA, C-449/13, clause 23.
21. *The Judgment* of the Court of 15 July 1964, in the ca*se of Costa, 6–64*.
22. The judgment of the Court of Justice of the European Union of 9 March 1978, case 106/77 — Simmental, ECR 1978. — P. 629.
23. *The judgment* of the Court of Justice of the European Union of 16 December 1976, case 33/76 — Rewe, ECR 1976. — P. 1989.
24. *The judgments* of the Court of Justice of the European Union of 10 April 1984, case 14/83 — von Colson and Kamann; of 13 November 1990, case C-106/89 — Marleasing; of 16 December 1993, case C-334/92 — Teodoro Wagner Miret; see also the judgments of 4 July 2006, case C-212/-4 — Adeneler; of 24 January 2012, case C-282/10 — Dominguez and of 16 December 1993, case C-334/92 — Teodoro Wagner Miret.
25. *The judgment* of 16 June 2005, case C-105/03 — Pupino.

26. *The judgment* of the Court of Justice of the European Union of 1 December 2011, case C-79/10 — Systeme Helmholz GmbH and other judgments referred therein.
27. *The judgment* of 6 October 1982, case C-283/81, CILFIT.
28. *Wojtaszek-Mik E.* Pytanie prejudycjalne do Trybunatu Sprawiedliwości wspólnot europejskich (Preliminary Rulings to the Court of Justice and European Communities), Warsaw, 2007. — 80 p.
29. *Zirk-Sadowski M.* [in:] L. Leszczyński, B. Wojciechowski, M. Zirk-Sadowski, Wykładnia w prawie administracyjnym (Interpretation in Administrative Law), vol. IV, Warsaw. 2012. — 370 p.