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## **On the adequacy of the assumptions of the derivative concept of interpretation for the study of interpretation of European Union law**

### **Summary**

The article concerns application of the derivative concept of law interpretation for the interpretation of the regulations originating in the European Union law. Although the assumptions of this concept are based on broad methodological foundations built on the achievements of many representatives of the Poznań centre of theory and philosophy of law (now continued in Szczecin), it is Professor Maciej Zieliński who is largely responsible for the current shape of this concept. The derivative concept of interpretation of the law should be regarded as one of great achievements of Polish analytical theory (philosophy) of law. This concept was built on two pillars: (i) the heritage of classical logic adapted – mainly thanks to the work of Professor Z. Ziemiński – to the needs of jurisprudence and (ii) the dominant in the twentieth-century linguistics concept of language (i.e. structuralism, non-referential concept of the meaning). In this paper a question was posed whether (and possibly to what extent) this, still new for the Polish theory of interpretation area of regulations, might affect the theoretical (methodological) assumptions underlying this concept.

There was no attempt in the study to analyse the European Union law texts themselves, but only to determine the adequacy of the very assumptions of the derivative concept of interpretation from the perspective of specific properties which are attributed to the legal doctrine of the European Union law. Among the research assumptions adopted by the concept of derivation there were three analyzed here: 1. the need to distinguish laws and legal norms conceptually, 2. the rationality of the legislator – i.e. rationality in the so-called instrumental version, and 3. the recognition of norms as clearly characterized expressions. In turn, the challenges that the practice of interpretation of the European Union law puts before the concept of derivation include mainly: 1. multiplicity of the subjects performing legislative functions, 2. a requirement of a uniform interpretation, taking into account texts of the EU and national legislation (the so-called mutually friendly interpretation), 3. technicality of most of EU regulations, and 4. multilingualism of EU regulations. Conclusions reached in the study support the derivative theory.

**Keywords:** European Union law – (derivative) concept of legal interpretation – legal provision and legal norm