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## **Conceptual Change of the European Studies after UK Withdrawal from the EU: Experience of the Interpretation in Good Faith**

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### **Abstract.**

Multidisciplinary research of European legal culture is a core part of European Studies. But at the same time, one cannot ignore the fact that globalization has resulted in the assimilation of other cultures into Western culture. Among the special legal cognition methods applied in this article one should mention the linguistic or logical-linguistic methods, and the method of legal interpretation in good faith. The Brexit - 2016 or United Kingdom European Union membership referendum and the subsequent negotiations for leaving the European Union highlighted several important points of interest for the work of contemporary democracies. Now, UK Withdrawal from the EU, the notion of “Europe” doesn’t mean only the “European Union”. It is comprised of the EU and another European states. Therefore, the notion of “Europeanization” has regained its old meaning. Europeanization is now the convergence of different legal systems based on European cultural legal tradition. It is the dialog between the main types of European legal culture – Anglo-American and Romano-Germanic. Therefore, essence of changes of the study of legal integration after UK withdrawal from the EU is closely linked to the new understanding of notion “Europeanization”. It was in this setting the new education paradigm of cultural sensitivity is formed during in the process of European acculturation. This idea integrated well into modern theory of multiple intelligences.

**Keywords:** legal culture, legal education, interpretation in good faith, European Studies, globalization, Europeanization, Brexit.

## 1. Introduction

This research is a multidisciplinary study of the European legal culture in the modern political and economic context. This approach of scientific and education process is part of European Studies. But in this case, we are dealing with a complex problem of relationship between moral and legal values in historical development.

Starting this scientific work, we are well aware that “the main part of solutions adopted in national legal systems are determined by long-standing tradition, prevailing in a given country” (Rafał Szczepaniak, 2018). However, one can not ignore the fact that globalization has resulted in the assimilation of other cultures into Western culture; “consequently, Western culture has emerged as the dominant culture, laying the foundation and standards for global competencies of education” (Jeff Scaggs & Jenn Chander, 2019).

The need for higher education is more important now than ever before (Levin, 2002), but the very cultural concept of this process is very fluid in this “changeable world”. Our educational system needs redirection from time to time according to social, cultural, economic, technological changes (Madhumita Guha).

In this way, the primary purpose of the study is to verify how much the understanding of modern culture and the educational paradigm have changed after Brexit. As the same time, we must also evaluate the scope and manifestations of this problem.

That's what we need to understand.

## 2. Methodology of the research. Interpretation in Good Faith

Some important axiological factors must be taken into account. Legal culture as an object of the study demonstrates its representativeness as a system of basic moral values and attitudes that are verbalized in the legal discourse. In particular, according to the axiological approach, “legal culture is regarded as a set of legal values that arise and develop in the course of the legal development of society (equality, justice, the rule of law, guarantees of human rights and freedoms, etc.)” (Kachur &Kozin, 2021).

In this context, a great Austrian jurist and legal philosopher, Hans Kelsen, said that “the enquiry into the hierarchical structure of the legal system has significant consequences for the problem of *interpretation*”. However, he believed that interpretation is an intellectual activity accompanying the law-creating process as it moves from a higher level of the hierarchical structure to the lower level governed by this higher level (Kelsen, 1990).

For this goal, Julius Binder introduced the term “pyramid of concepts” (Binder, 1925), even earlier. Such an idea was taken as a basis for theory of Jurisprudence of Concepts, very productive for our research (Haferkamp, 2011). It is proposed to take all these approaches for interpretation as a basis for the general legal methodology of our research.

Among the special legal cognition *methods* applied in this article, one should mention the linguistic or logical-linguistic methods, and the method of legal interpretation. Within the concepts framework of the methodology, law itself is considered as a language system and cognition in its essence is of conventional character. Consequently, if we change the conceptual apparatus, “we can refrain from recognizing these judgments despite the presence of the same experience data” (Rafał Szczepaniak, 2018).

The most consistent application of the logical-linguistic methods is the interpretation in good faith or interpretation in accordance with good faith and fair dealing. These methods of interpretation belong to a holistic philosophy. And that's why they are mostly aimed at harmonious interpretation, which aims to conclude a type of interpretation or the actual agreement of the interpretive parties on the possibility of reconciling different interpretive controversies on the basis of a new (conventional) system of interpretation that cannot contradict with the criteria of common sense (Cathy Ruby Thomas, 2021).

A strategy of thinking of this type makes it possible to build a pragmatically convenient, but simplified mechanism to overcome the conflict of interpretation by language conventions. These conventions (of languages and interpretation) are combinations of language manipulation to show something in a way that is generally understandable.

Following this, it is believed that a good faith interpretation is based on common sense (Gaydulin, 2013) and the general legal principle of good faith prevails in European law (Krupchan, Haidulin, Kochyn, Bernatskyi, Kochyna, 2020).

Differences in the understanding of this concept by national legal cultures are not large, but we should remember that “good faith will not trump an absolute contractual right in English law” (Sana Mahmud, 2016).

### **3. Political context of the Eurointegration`s most pressing problems**

One of the most important cornerstone events of the world political arena, which had caused changes in the main doctrines of European law is Brexit – in 2016 or the United Kingdom European Union membership referendum. The subsequent negotiations for leaving the European Union highlighted several important points of interest for the work of contemporary democracies, as well as the risks they face (Antonio Goucha Soares, 2020).

This event certainly has legal significance, but it is generally seen as the sovereign and fair decision on both sides. The withdrawal of the United Kingdom from the European Union is a perfect example of the legal and political process, that has been committed in full accordance with existing international standards and the law of general application.

First of all, this is confirmed by Article 50 of the Treaty on European Union (TEU) that states: "Any Member State may decide to withdraw from the Union in accordance with its own constitutional requirements". The existence of this legal rule demonstrates the highest level of the democratic character of the European Union as a supranational political and economic union of sovereign member states.

But it is absolutely clear that the prospect of the UK's withdrawal was initially understood as a threat by the European Union. Due to a number of objective and subjective reasons, the success of European integration was due in part to the European Communities' ability to attract new countries. Indeed, the enlargement process was one of the pillars of the so-called dynamics. It makes sense that the UK's exit represented the opposite of the enlargement.

For this reason, “Brussels feared that the United Kingdom could be a harbinger to reverse the process that had made European integration stronger. If the access of new countries was framed by an enlargement policy, the United Kingdom abandonment could represent the first step towards European disintegration” (Antonio Goucha Soares, 2020).

This event has global importance because Europeanization of law is a certain model of Legal integration as a manifestation of globalization, which is a process of world-wide international integration arising from the interchange of many world views, products, ideas, and other aspects of culture on a global scale (across the planet) (Globalization. Knowledge and Society, 1990). But the “globalization is, perhaps, the most controversial of these terms, given the wide discrepancies in views of its sources, reach, and impact on countries' policy choices” (Schmidt, 2001).

### **4. Legal aspects of the conceptual interpretation in the field of Europeanization**

The uniqueness of the term «Europeanization» is that etymology of this word is contrary to its own semantics. It is clear that the term actually derives from «Europe», but its content relates to the “European Union” (Gaydulin, 2017).

For example, it is rightly noted that «much of the literature on European integration refers to the domestic impact of the European Union (EU) as *Europeanization*» (The Europeanization of Central and Eastern Europe, 2005). And famous Danish scientist Ole Lando explained: “To Europeanise means to unify or harmonise European law. The term Europe covers those countries which are or will become members of the European Union” (Lando, 2000).

The main consequence of Brexit is that use of the term EU to identify all of Europe is destroyed by one act. All this happened because the level of European Union identification was excessive. And some European researchers have previously criticized the overly European Union-centric notion “Europe” that the term “Europeanization” implies, while noting its obvious inaccuracy (The Europeanization of Central and Eastern Europe, 2005).

This process is described better by the neologism «EU-ization». So a British expert in European studies Helen Sarah Wallace (Lady Wallace of Saltaire) in 2000 has noted, the term «EU-ization» would be more accurate to denote the impact of the European Union on other countries [6, p. I]. Such attempt of the verbalization of this content can be considered using the term “EU-Specific Europeanization” (Bache, 2008).

Now, factually and legally, Europe is comprised of the EU and other European states. Therefore, the notion of “Europeanization” has regained its old meaning. Europeanization is now the convergence of different legal systems based on European cultural legal tradition. It is the dialog between the main types of European legal culture – Anglo-American and Romano-Germanic.

In that connection, undoubtedly the Anglo-American cultural tradition has the common essence of European spirit, despite the fact that adherents of this tradition are located outside of the continent of Europe. It's absolutely ridiculous to search roots of American legal culture in traditions of North American Indians or the origin of the Jurisprudence of the Commonwealth of Australia – in the customs of Australian aboriginals. “European culture” is not a geographical concept.

### **5. New education paradigm for the process of European acculturation**

We proceed from the fact that modern European acculturation is the “multi-faceted” process of internal cohesion and mutual penetration of national cultures on the basis of shared common European values. But what is the essence of education in this context?

And we stand in solidarity with Robert Karaba (New Mexico Highlands University), a specialist in the field of Educational Leadership, in this matter.

In fact, all so-called, “civilized countries” of the world “refers to the more technocratic, capitalistic approach to education that dominates our culture today”. Such a paradigm corresponds to the *Gold Standard of Education*: “education is about increasing a student’s cognitive capability as measured by their performance on standardised tests, so that economic development may occur”. Most culturologists (rather than economists) tend to agree that “fostering a more democratic socio-cultural environment will require a different answer than focusing on test scores” (Robert Karaba, 2021).

Truth be told, lawyers have not yet voiced their opinion on the subject.

The new paradigm of education “must provide students with the cultural sensitivity needed to foster interests for humanity around the world” in the framework of European acculturation (Jeff Scaggs & Jenn Chander, 2019). Specifically, “leaders must integrate, explore, revamp, create, and develop multicultural leadership competencies in an effort to become global leaders. That is, leaders need a solid knowledge-base and comprehension of multicultural effectiveness” (Holt, & Seki, 2012).

In turn, such effectiveness can only be based on *multiple intelligences* or human intellectual competencies which challenge the classical view of intelligence based on IQ Tests (Ra'ed Abdelkarima, Khedr Abo Hassana, Reem Abuiyadaa, 2018).

This intelligence may be defined “as the ability to solve problems or to create fashion products that are valued within one or more cultural settings” (Gardner, 1983).

### **6. Summary**

Examining the subject like that, we come to the conclusion that the essence of changes of the study of legal integration after the UK’s withdrawal from the EU is closely linked to the new understanding of the notion of “Europeanization”, which truly is very old.

Really, European studies must be a field of study and education that focuses not only on current developments in European integration under the auspices of the EU, but, much more widely, on the History of Western civilization and the evolution of European culture.

But in fact, our study shows that educational change is a necessity. However, change does not take place in isolation, but in a physical context (Alshumaimeri, 2022), and under the pressure of new culture and historical circumstances to a greater extent.

It was in this setting the new education paradigm of *cultural sensitivity* is formed during the process of European acculturation. This idea integrated well into modern theory of multiple intelligences.

## References

- Antonio Goucha Soares (2020) The United Kingdom withdrawal procedure from the European Union. *Juridical Tribune*, Volume 10, Special Issue, October 2020, 5–19.
- Bache, I. (2008) *Europeanization and Multilevel Governance: Cohesion Policy in the European Union and Britain* Rowman & Littlefield, 2008.
- Binder, Julius (1925), *Philosophie des Rechts*, Berlin, Georg Stilke 1925.
- Cathy Ruby Thomas (2021) The Principle of Harmonious Interpretation: The Approach of Indian Courts. *International Journal of Law Management & Humanities*, 2021. Volume: 4. Issue : 4, 2018–2024.
- Gardner, H. (1983). *Frames of Mind: The Theory of Multiple Intelligences*. New York: Basic Books, 1983.
- Gaydulin O.O. (2017) New concepts in Europeanization of private law after the 2016 Brexit referendum: some experience in interpretation of law. *Legal regulation of the economy*. Collection of Scientific Papers. Kyiv National Economic University. Issue 16, 223–230.
- Gaydulin O.O. (2013) The Literal Sense of Text and Common Sense in Context: The Contract Interpretations in Ukraine and other Countries. *Legea și viața*. 2013. № 9 (2), 104–107.
- Globalization. *Knowledge and Society: Readings from International Sociology* (1990) edited by Martin Albrow, Elizabeth King. London, New Park, New Delhi. 1990.
- Haferkamp, H.-P. (2011) Begriffsjurisprudenz = Jurisprudence of Concepts Enzyklopädie Rechtsphilosophie. *IVR (Deutsche Sektion) und Deutsche Gesellschaft für Philosophie*. April 6, 2011 Recovered from <http://www.enzyklopaedie-rechtsphilosophie.net/inhaltsverzeichnis/19-beitraege/105-jurisprudence-of-concepts>.
- Holt, K., & Seki, K. (2012). Global leadership: A developmental shift for everyone. *Industrial & Organizational Psychology*, 5(2), 196–215. doi:10.1111/j.1754-9434.2012.01431.x.
- Jeff Scaggs, Ed.S., Jenn Chander, Ed.S. (2019) The Effect of Globalization on Leadership, Education, Workforce Development, and the Twenty-First Century American Community College in *Journal of Education & Social Policy*. Vol. 6, No. 1, March 2019, 1–4. doi:10.30845/jesp.v6n1p1.
- Kachur, Vira, Kozin, Sergey (2021). The structure of legal culture of personality. *Entrepreneurship, Economy and Law*, 12, 87–91, doi <https://doi.org/10.32849/2663-5313/2021.12.15>.
- Kelsen, H. (1990) On the theory of interpretation / Translated by Bonnie Litschewski Paulson and Stanley L Paulson. *Legal Studies*. Volume 10, Issue 2, July 1990, 136–152.
- Krupchan, O. D., Haidulin, O.O., Kochyn, V.V., Bernatskyi, M.V., Kochyna, K.A. (2020) Economic activity of legal entities: Elimination of the dualism of legal regulation in the context of convergence with European private law. *Asia Life Sciences*, 2020, (1), 1–19.
- Lando O. (2000) Some Features of the Law of Contract in the Third Millennium. *Scandinavian Studies in Law*. 2000. № 40. 343–402.
- Levin, J. S. (2002). In education and in work: The globalized community college. *The Canadian Journal of Higher Education*, 32(2) Recovered from <http://ezproxy.cpsc.edu/login?url=http://search.proquest.com/docview/221135760?accountid=10008>.
- Madhumita Guha (2014) A Comprehensive Educational System in *Journal of Education & Social Policy* ISSN 2375-0782 (Print) 2375-0790 (Online) Vol. 1, No. 2; December 2014, 36–39.
- Ra'ed Abdelkarima, Khedr Abo Hassana, Reem Abuiyadaa. (2018) Analyzing the Intelligences Profiles of Law Students: Did the Students Select the Right Specialization? In *Journal of Education & Social Policy* Vol. 5, No. 3, September 2018, 76–84 doi:10.30845/jesp.v5n3p9.
- Rafał Szczepaniak (2018) Semantic aspects of research on the application of private law in the public sector within the legal culture of Continental Europe (with particular emphasis on Polish experience). *Juridical Tribune*. Volume 8, Issue 2, June 2018, 324–356.

- Robert Karaba (2021) Breaking Down the Gold Standard of Education in *Journal of Education & Social Policy*. Vol. 8, No. 2, June 2021, 10–18 doi:10.30845/jesp.v8n2p2.
- Sana Mahmud (2016) Is there a general principle of good faith under English law? *Annual Review*. Recovered from <https://www.fenwickelliott.com/research-insight/annual-review/2016/principle-good-faith-english-law>.
- Schmidt, Vivien A. (2001) Europeanization and the Mechanics of Economic Policy Adjustment. *European Integration on line Papers* (EIoP). Vol. 5 (2001) N° 6; Recovered from <http://eiop.or.at/eiop/texte/2001-006a.htm>.
- The Europeanization of Central and Eastern Europe (2005). Edited by Frank Schimmelfennig. Ulrich Sedelmeier. Cornell University Press, 2005.
- Yousif A. Alshumaimeri (2022) Educational Context: The Factor for a Successful Change in *Journal of Education & Social Policy* Vol. 9, No. 1, March 2022, 51-57.