ARTICLES

The Process of Europeanization and the Formation of the European Legal Space

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The changes of political systems in Eastern Europe at the end of the 1980s contributed to the strengthening of efforts aimed at deepening the process of European integration. For a long time, these efforts have been affected by political, economic, and social factors constituting the social and political situation in the development of Europe and the world in the second half of the 20th and at the beginning of the 21st centuries. While European integration at the beginning of the 1950s was explained mainly in reference to economic interests, EU members nowadays unequivocally accept the fact that European integration is also a political process aiming towards the formation of a political union as the highest phase in the process of integration, where the bodies of the integrated group perform not only a common economic policy but also extend their activities into the spheres of foreign, security, defence, and internal policies. The EU, thus, simultaneously represents a form of a legal and political space *sui generis*.[1]

The following exposition will mostly be methodological. Its aim is to deal with the main concepts that are characteristic of the current development of the EU. The first part of this article focuses on the term "Europeanization", with the aim of explaining it as the core of European integration. At the same time, the relationship between Europeanization and globalization will be investigated, as well as the way in which these processes are reflected in the formation of the European legal space. This space tends to be described as a multi-centric legal system. The second part of this article points out the difficulty of a theoretical description of such multi-centric relations by means of the traditional categories of "legal order" and "legal system". The article concludes with a discussion of possible models of legal interpretation, which is considered as the generator of legal communication in the multi-centric system of law.

1. The process of Europeanization as a manifestation of European integration

Recently, the expression "Europeanization"[2] has started to be used quite frequently in connection with the process of European integration, extended mainly as a result of the Treaty of Amsterdam. Although the social sciences were using this term as early as the 1980s and 1990s, it started to be commonly used only after 1999. The conceptual framework of this expression, however, goes beyond the area of the European Union and its member states, expressing also the wider influence of the EU on countries standing aside from the immediate process of European integration.

The term "Europeanization" has not been used uniformly. This is also because the concept has many "faces" and directions in which it operates both "internally" towards the EU and "externally".[3] A more precise delimitation of the term was attempted by J. P. Olsen, who formulated five basic senses of this term. According to Olsen, the term "Europeanization" is used to refer to:[4]

The changes of the external territorial borders of the EU by admitting new member states, which become Europeanized in the course of the process.

The development of executive institutions on the level of the EU. These represent central management and political co-ordination, and are equipped with formal legal institutes and a normative order capable of enforcing binding decisions, sometimes with the help of sanctions.

The penetration of the European dimension into the national and sub-national systems of executive power.

The export of political organization and political power beyond the borders of the EU.

The political project striving to arrive at a unified and politically stronger Europe with a more significant political position.

Olsen's overview of the understanding of the term of "Europeanization" captures the multiple senses of the term as well as the multi-dimensional nature of the process of Europeanization occurring, above all, in four areas:[5]

- Europeanization of policies – the effect of membership in the EU on the shape of public policies of the individual member states.
- Institutional adaptation – the change of social and political institutions in EU member states.
- Europeanization of law – this includes not only the formation of European law but mainly the convergence of the national legal systems of the individual member states and states striving for EU membership. It becomes indirectly reflected also in the field of international law.
- Transnational cultural diffusion – this consists in the extension of cultural norms, values, ideals, identities and patterns of behaviour within the EU and their spread beyond the borders of the EU.

The discourse on the dimensions of Europeanization is also reflected in the topics of scholarly research into this process. Significantly, the European University Institute in Florence, which has been focusing on the study of European integration and the process of Europeanization since 1972, has four divisions: economy, the history of civilization, law, and social and political sciences.[6] Clearly, the field of European studies, next to legal science, is enriched mainly by the disciplines of political science, international relations, and economics.

From among the wide range of definitions of the concept of "Europeanization", at present probably the most cited and suitable is the definition provided by Claudio M. Radaelli. In his view, Europeanization consists of *the processes of formation, extension and institutionalization of formal and informal rules, procedures, political paradigms, styles, ways of "doing things" and sharing of opinions and norms which are first defined and consolidated within the political processes of the EU and subsequently incorporated within the logic of domestic (national and sub-national) discourse, political structures and public policies.*[7] At the same time, however, Radaelli does not limit Europeanization to a unidirectional process directed towards nation-states; rather, he conceives of it as a two-directional process of mutual influence between national and European public policies.

2. Globalisation as a framework for Europeanization

The process of Europeanization cannot be seen separately from the wider notion of world-wide *globalisation*, which has been described by Zygmunt Bauman as "the state of human existence condensed by temporal and spatial compression."[8] Globalisation refers not only to the global market and the globalising economy, but also to a complex social and political process with an internal structure,[9] whose implications affect, on one hand, economic, political, social, and cultural areas of life, and, on the other, the field of law. In its manifestations and implications, globalisation creates a framework for the ongoing process of Europeanization.

The German sociologist Ulrich Beck characterises globalisation as a process leading to the undermining of nation-states and their sovereignty, since they are becoming mutually connected by means of supra-national agents, their power potential and networks.[10] In this respect, late modern societies are characterised by the irreversibility of their *global nature*, arising from globalisation and manifested by the formation of a world-wide society. Globalisation is an expression of the fact that no state, country, or social group can shut itself off from others; as a result, various economic, cultural, political, and legal forms may clash. The process of globalisation then essentially causes the world to become a single social system in which all are interconnected in multiple ways and depend on each other. At the same time, however, such a union of social relations is not integrated by means of some kind of state policy. The developing global society exists without the form of a world state, without world rule, and with numerous manifestations of global disorganisation.[11]

Economic, political, and legal relations that are transgressing the boundaries of individual countries significantly affect the lives of inhabitants of such countries and the human population as a whole: some fundamental problems of human life, such as reaction to environmental devastation or protection from terrorism, necessarily acquire a global character. Globalisation – as well as reactions to globalisation and its implications – strengthens *tendencies towards pluralism* in national, religious, ideological, cultural, political, legal, and social areas, as well as *weakens the sovereignty* of individual nation-states.

The process of globalisation brings about trends towards *universalisation*, i.e. the generalisation and unification of institutions, symbols, and ways of behaviour, including dress code, human rights, and democracy. On the other hand, globalisation paradoxically leads towards *particularism*: the fragmentation of the sovereign nature of the state and the strengthening of attempts to renew local social identities, reflec-

ted in a return towards nationalism and autonomy (cf. Quebec, Catalonia). The consequences of the weakening of the sovereignty of individual states, combined with global transnational integration, the non-existence of effective institutions of a wider global management, and the generally existing lack of legitimacy for rising global authorities, call for a more cosmopolitan definition of nationality and a stronger assertion of political and cultural pluralism rather than multiculturalism.

Thus, globalisation necessitates a broad discourse on the nature of freedom, democracy and human rights in the globalising world. Sometimes the process of globalisation is looked up to with high hopes; e.g. former UN General Secretary Kofi Annan expressed his conviction that globalisation – due to its rapid changes - brings a world-wide challenge to the area of fundamental human rights and freedoms.[12] By contrast, Ralf Dahrendorf, for instance, has warned of the fact that globalisation always simultaneously means the disappearance of democracy,[13] where the global results in the end of nation-state. One is, thus, led to ask the question: How realistic is the idea of the possible existence of a *transnational state* replacing the nation-state? Ulrich Beck believes that such a transnational state would be a sort of response to globalisation. This would be a two-sided hybrid model connecting features that had previously appeared to be mutually conflicting. The transnational state would, thus, be non-national and non-territorial, but it would not be inter-national or supra-national either. It would be a "glocal" state,[14] i.e. a province of the world society.[15] In his later works, Ulrich Beck describes the paradoxes of politics in the global world, where the boundaries of national and international spheres within the cosmopolitan political realism are being newly negotiated in an entirely open game of meta-power. Ulrich considers globalisation to be a historical transformation in which the distinction between the national and the international is being cancelled out within the framework of a hitherto blurred environment of the power of internal world politics.[16]

3. Globalisation of law

As an internally structured technological and social process of transnational co-operation, globalisation is significantly reflected in the area of law. *Globalisation of law*, as one of the areas of ongoing globalisation, is a reaction to the growing interconnection between manufacturing, economic, political, cultural, and social relations that are being formed across individual political, national, and cultural units. While its purpose is to bring *stability and legal certainty* to such relations, globalisation of law may be perceived as *a general process of the internationalisation of internal law.*[17] It may, however, also lead to the confrontation of local legal practice and transnational legal principles and practices which are striving to assert themselves.[18] In connection with globalisation, Beck mentions the rise of legal populism in Europe and other parts of the world as a reaction to the absence of any stance towards the world whose boundaries and foundations have started moving.[19] This is because a typical feature of globalisation resides in the fact that it does not have any tangible and clearly defined centre of power: globalisation processes are, essentially, *not governed by anybody*, and it is impossible to state who – if anybody – is responsible for it. In the post-national age, the mono-centric power structure of competing nation-states is being replaced with *polycentric politics*, whose implementation is characterised by a large group of competing – or co-operating – state and transnational actors without any single one of them having the main say.

The consequences of globalisation on the level of political decision-making are likewise reflected in the area of law. Until recently, traditional legal theory reflected solely two levels of law: national (internal) law and international public law. In the past few decades, these two levels of law have been supplemented by transnational law, represented mainly by European law but also other legal systems. In this connection, the British legal theorist William Twining, in his book *Globalisation and Legal Theory*, points out that normative regulation reflects all levels of social (legal) relations, and that it is useful to distinguish between the following regulations: global, international, regional, transnational, inter-communal, state, sub-state, and non-state local.[20] This division, based essentially on a geographical perspective, is only one of several possible divisions. Its aim is to point out the existence of non-state law and the fact that the above-mentioned different levels of legal regulation do not express a simple vertical hierarchy. Frequently overlapping, these normative orders express a phenomenon referred to as *legal or normative pluralism.*

Globalisation of law finds its expression not only in the area of parallel multi-level law-making and law application, but also in the change of operation of the entire field of law, including the way legal professions are exercised. The change of American law firms and their international expansion have, for instance, been documented in several US studies.[21] While, in 1949, there were only 5 law firms in the USA with more than 50 lawyers, the figure rose to more than 287 in 1989. In 2000, there were more than 150 law firms employing more than 250 lawyers, out of which 57 law firms had more than 500 lawyers and 7 law firms had more than 1,000 lawyers each. These large law firms are gradually building networks of branches in centres of world economy, specialising in legal advisory for large corporations. A similar development is occurring in the Czech Republic. One of the largest law firms in the country is the American company White & Case, with more than 30 lawyers and 10 tax advisors employed in

its Prague branch and almost 2,000 lawyers working for it world-wide. The existence of these giant law firms with extensive networks of branches in many countries comes as the result of a growing demand for legal services that provide comprehensive legal assistance in transnational transactions.

4. *Europeanization as a response to globalisation?*

Globalisation may be characterised as a universal transnational or world-wide process of integration, bringing both positive and negative effects. In this connection, there occurs *a confrontation between the global and the local*, where the trend towards localisation – as a reaction to globalisation – enforces attempts aimed at *regionalisation* in its numerous political and legal forms. The aim of such regionalisation is also a way to describe the development of European integration.

In this context, Ulrich Beck deals with the issue of whether there is some way out of the trap of globalisation and some protection from its adverse effects. This may be assured, in his opinion, by a supranational body of the size of the European Union, which is the only body that could restore the democratically controlled social and political ability to act among co-operating states.[22] It is only a strong and democratic EU that could be a real player in the game of globalisation. According to Snyder, the relationship between Europeanization and globalisation may be described as a relationship between both friends and rivals.[23] In other words, these are two complementary and partially overlapping processes, which both strengthen and compete with each other.

On closer inspection, the relationship between these two processes – globalisation and Europeanization – can be expressed as follows: Europeanization is a process of economic, political, and legal regional globalisation whose dominant institutional architecture has become the European Community/European Union.[24] It is this institutional anchoring of European integration that helps Europeanization to turn the otherwise generally applicable world-wide globalisation trends into an actual phenomenon existing in real life. Europeanization, therefore, needs to be seen – unlike globalisation – also as a political project following certain preset goals and agendas.

The institutional anchoring of the European integration process, combined with political decision-making, finds its expression in the EC/EU law, which reacts to the most significant economic relations formed through the process of globalisation. The legal tools applied within the Europeanization process, thus, perform a wider and more important role than the essentially non-institutionalised manifestations of legal globalisation.

5. *Europeanization of law as an instrument in the process of the integration of Europeanization*

While EC/EU law is an important manifestation, means, and outcome of the process of Europeanization, the process of Europeanization may be described as being clearly apparent in the *Europeanization of law.* This consists not only in the making and implementing of European law, but also the Europeanization of sources of law, the concept of human rights and the state of law, judicial activities, interpretation of law, legal procedures and methods, as well as in the manner of legal thinking.[25] The Europeanization of law is, thus, reflected in the entire area of EU law as well as EU politics, increasingly modifying the national legal space.

European integration is significantly organized and implemented by legal forms and legal institutions. The Europeanization of law is mostly manifested by means of the Europeanization of sources of law, thereby overcoming the traditional image of "the national law-maker" who uses legal means to regulate – essentially in a unified manner – the entire relevant extent of legal relations. By contrast, we are witnessing an ever-increasing number of sources of law – a phenomenon referred to as *the multi-centricity of sources of law.*

These sources of law include, in addition to internal state law, what is comprehensively called *European law*. In a more narrow sense of the word, the expression *acquis communautaire* is often used in this connection, even though the term is not quite unequivocal. *Acquis communautaire* – understood as everything that has been attained within the European Community, mainly in law – is a set of all rules, mostly of a legal nature and in any form (including individual acts in law) that has become the "property" of the EC. *Acquis communautaire* represents everything that the members of the Community – mainly its new members – must relate to and respect because it is the convergence and harmonisation of national legal systems with EC law, aimed at creating a compatible legal space, and the approximation of institutions, procedures, and policies that represents the crucial agenda of the EU. As Robert Ladrech points out, the answers to the challenges raised by the process of European integration, and the variability of approaches and results of this process in the individual countries, depend on whether a given country has a unitary or federal structure and what the long-term traditions of political culture are like, as well as on the balance between the public and private sectors, the patterns of co-operation and competition between political parties, and many other aspects.[26]

6. Communication as a medium of the European legal space

As stated above, one of the aims of European integration is the formation of a common legal space. These efforts have met with various receptions by legal theorists. Some of them are highly sceptical in regard to Europeanization, perceiving it as a highly controversial project that will lead to crisis and chaos in national legal systems. Others consider EU law as a "uniquely mixed pedigree" from which no real unity can ever arise.[27] By contrast, optimists unequivocally interpret this process as a challenge leading to new models of law. They believe that Europeanization – similar to globalisation – results in the formation of a multi-centric system of law characterised by the co-existence of various non-hierarchically organised centres of adjudication. The legal space will be formed by network relations that de-territorialize national legal orders.

The difference between these two approaches is often interpreted as a clash between the structural and functional conceptions of law, or, more specifically, the positivist and systemic conceptions of law. The structural approach tends to be characterised by a hierarchical view of law, while the functional approach is characterised by a network arrangement of legal relations.[28] Although this assessment describes a certain trend in the knowledge of law, it represents some simplification in connection with the endeavour to describe the Europeanization of law. The subject matters of the structural or functional approaches are relatively easy to grasp, because they are always related in some way to social behaviour or some activity. In the case of the Europeanization of law, no reference to the object is directly observable. Therefore, it is important to create a common legal space, i.e. something that can be hardly described by means of traditional categories such as the legal norm, legal order, legal system, etc.

An evidence of the insufficiency of the notions of system and order for the description of the European legal space is furnished by a decision by the European Court of Justice referring to the Agreement on the European Economic Community. The aim of this agreement was interpreted differently in different languages. In English, the aim is expressed as a way towards the formation of a legal system to integrate parts of the legal systems of the individual member states. In French, in contrast, the aim of the agreement is to achieve one's own legal order (*ordre juridique*) to be integrated into the legal systems of the individual member states. To complicate the matter even further, the German version uses yet another combination of the terms "system" and "order", stating that the aim is to form one's own legal order that will be accepted by the legal orders of the member states.[29]

The formation of the European Union makes it even more difficult to describe the legal space using the terms "order" and "system'. Within the EU, only those economic relations which had formed the basis of the European Community cease to be the object of legal regulation. Similarly, the removal of borders under the Schengen Agreement called for the formation of legal rules and regimes (procedures) which control the flow of information, goods, investments, migration, and crime, rather than specific forms of economic activity. The draft of the Constitution for Europe reveals that the European legal space should be formed in harmony with the social order striving to implement traditional humanistic values. This will result in a strengthened interconnection and applicability of human rights, not just as values that need protection but as real, achievable aims for EU life.

Objects that are subject to legal regulation within the European space take the form of flows and rules. Their movement and operation do not occur in a vacuum; they are enabled thanks to a specific communication infrastructure which can hardly be controlled from the centre of some state.[30] One is led to ask how this network of flows and rules of communication, which is likened to a system of "nerves" of the European legal space, operates. What form of communication has the decisive role? These are questions which will underlie the structure of the present legal theoretical account. The following exposition will outline only some of the issues and problems.

7. What is the object of interpretation in a multi-centric system of law?

One of the basic preconditions for EU membership is the harmonisation of national law with European law. The implementation of European directives and rules significantly disrupts the communicative homogeneity of individual national legal systems with the aim of opening new communicative flows and generating new rules. However, this process is not automatically triggered by implementation. Practice has shown that its operation depends on the understanding and interpretation of European law. In this connection, we could list a whole range of examples of judicial decisions still adopted on the basis of national legal norms, without applying the implemented rules. This is because many judges still perceive EU directives as the manifestation of an expansion of a superordinate order into national legal systems. Their understanding of law as only a hierarchically organised order is, therefore, highly resistant to the new topic – the multi-centric system of law.

What is, then, the object of understanding and interpretation in a multi-centric system of law? Is it European law? But what does this term actually mean?

Current legal theory does not seem to have a clear answer to this question. Numerous definitions stipulate that the core of European law is made up of the law of the European Communities. At the same time, it is being emphasised that the words "community" and "union" are not synonyms. It is recommended that one should distinguish between European law in the narrow and wider senses of the word.[31] Not much help is offered by those definitions, which try to delimit the European space from a functional or structural point of view, i.e. as a system or an order.[32]

The logical question creeps in about how possible it is to understand and interpret once we know that the object is open, variable, and diffused within network relations?

Interpretation still remains an interpretation of the meaning of something for someone. Its mechanism will presuppose the understanding of what was and is, as well as empathy towards the new outlook. But, on what will the prior understanding of the interpreter be based? Will it be based on the national legal order or just the existing legal cases dealt with within the European Union? The search for answers to these questions brings us back to the notion of "European law" and its function in legal thinking.

8. Why do we need the concept of "European law"?

The absence of the concept of "European law" is most strongly perceived in the understanding of fundamental principles of integrity formation in the European legal space. Linguistic problems, as mentioned above, occur in connection with not only the description of the nature of the European legal space but also the interpretation of the fundamental principle of integrity. The English version of the Treaty of the European Union translates the term "integrity" in the sense of "consistency" and "continuity". By contrast, the French version refers to "coherence".

Some authors believe that such a discrepancy is caused by an insufficient description of this principle in the Accession Treaty, requesting that it be made more specific.[33] Nevertheless, although additional features may lead to a better understanding of a given phenomenon, they do not guarantee the understanding of its meaning. This also presupposes a change in the manner of thinking; the current description of the principle of European integration appears to be insufficient to bring about a change in thinking and result in the adoption of some other meaning of the notion of "integration".

The English and the French versions exist as interpretations of different understandings of the operation of one's national legal orders under the conditions of the current process of European integration. The expression "coherence" in the French version points to an understanding of this process not only as the removal of logical discrepancies – which seems to be the meaning of the terms of "consistency" and "continuity" – but also the formation of positive relations between various areas or systems of law.

This different understanding of the principle of integration is not, however, an obstacle preventing the formation of real integrative relations. However, it is not a way to some reduction of one's own national legal tradition, either. Rather, it is a challenge for an extension of the communicative competence of a given language. The process of the Europeanization of law also shows that any understanding of legal phenomena – legal behaviour, acts, rules, or principles – is possible only after understanding their operation (*Rechtswirkung*). From this perspective, the concept of "European law" could perform the function of a reason extending the observation and understanding of the processes of European integration. In brief, the English understanding of the term "integration" would change only as a result of observation of the practical effects of the process of European integration. Nevertheless, it is still not clear what role in the observation and understanding of the world can be performed by a term.

9. What role is played by the concept of "European law" in the practice of interpretation?

Let us deal with this question by answering why we need the concept of law for legal practice at all. According to the English theorist H. L. A. Hart, this should help us to understand the differences between various things or qualities. The concept is then used in a situation where we understand something but are unable to express it.[34] A similar opinion is shared by the German legal theorist R. Alexy. In his view, "concept" does not have any meaning in real legal practice. It becomes urgent where decisions need to be made in unusual cases – the so-called "hard cases".[35] In such situations, the concept fills a gap in law, thereby assisting judges in finding suitable solutions. However, the application of European law by means of national law does not constitute such "hard case" situations.

Both Hart's and Alexy's approaches, however, remind us that the function which the concept of law fulfils is not only epistemic but also practical. Recently, a pragmatic moderation of concepts has been popular with many theorists. For instance, a very interesting pragmatic model of the concept of law has been suggested by the American philosopher R. R. Brandom, on the basis of his theory of inferential semantics. For this purpose, Brandom chose the model of judicial decision-making under the conditions of "strict case law": the judge does not have anything at his disposal

save his own understanding of existing cases. Brandom poses the question of how a judge can make a stable decision in such a situation, arguing that this is possible thanks to responsible application of concepts (words). But what does this mean?

First, Brandom shows that the concept functions not only as a "bridge" between our thinking and the material world. He presents the concept as the ability of our thinking to always conceptualise something.[36] This opinion is not a new finding. What is new, however, is that Brandom probes this process in the following manner: "He moves from what people do to what they mean and think, and from their practical behaviour to the content of their statements and expressions."

Second, the judge must express himself in such a way that his message respects the understanding of other participants in a conversation. The understanding of the other must become a part of his understanding of legal rules and laws. This is what Brandom considers to be the prerequisite of responsible judicial decision-making. The judge does not make stable and correct decisions because this is what he is required to do, but because it is his virtue.

According to Brandom, judicial decision-making based on prior judicial decisions is performed in a similar manner. In this situation, however, the judge adopts in his understanding and language the perspective of a legal authority. The adoption of this position, thus, brings him to reflect on his own practice, whereby he discovers himself as an authority.

Brandom's model of decision-making corrodes the "blind power" of the exclusively set authority by means of the reflexive power of one's own understanding and interpretation of a concept. The use of a concept is not arbitrary but strives for reasonable and successful understanding.

Successful understanding means that the judge respects in his understanding the perspective of other participants in such a way that the participants are simultaneously able to interpret this expression in the same way in which it was understood by the judge. This reciprocity of understandings creates a network structure of legal communication which is based on internal links between all judicial decisions from the past to the present. The adoption of the perspective of other participants results in judicial decisions always being made with respect to the future.

Another element of this model is that participants are not considered merely as objects that are to listen to the judgment of a legal authority. On the contrary, they are perceived as those to whom the law speaks. In this way, Brandom shows that the judge's legal argumentation and interpretation ceases to be an authoritatively prescribed speech; instead, it turns into a decentralized conversation between the parties. The main prerequisite for respecting the judge's authority is the ability to form one's own understanding with view to other people's understanding.

The current differences and conflicts between European and national courts are presented as the result of a lack of mutual respect for decisions of other authorities. Some authors believe that a potential solution could reside in co-operation and coherence in regard to the protection of fundamental European values and principles. Their point of departure is the fact that most of these principles and values, protected by particular legal systems, are simultaneously contained in all European constitutional instruments. But, is the finding of points of contact enough for the creation of a functional European legal space? Will this also be an effective way for the enactment of those cultural and national rights which are contained in only some of the national constitutions?

In the adjudication practice, European integration, however, does not mean only the finding of more universal models of rules and principles guaranteeing fundamental rights and values. This union should be formed by means of a reciprocal understanding of the sense of the fundamental rights regulating the life of EU citizens.

To sum up, Brandom's model makes it possible to deal with the concept of "European law" by introducing a moderation of language-use into legal thinking that leads not only to a deeper knowledge of the processes of European integration, but also to understanding as a way to law's existence.

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[1] HIX, S. *The Political System of the European Union*. Basingstoke: Palgrave, 1999, p. 164.

[2] Less frequently, the English expression "Europeization" may be encountered as well.

[3] Cf. DANČÁK, B., FIALA, P., HLOUŠEK, V. "Evropeizace: Pojem a jeho konceptualizace" ["Europeization: The Concept and Its Conceptualisation"] In DANČÁK, B., FIALA, P., HLOUŠEK, V. (eds.). *Evropeizace* [*Europeization*] Brno: MPÚ MU, 2005, p. 13 and subsequent pages.

[4] OLSEN, J. P. "The Many Faces of Europeanization". *Journal of Common Market Studies*, 2002, vol. 40 (2), p. 921 and subsequent pages.

[5] Srov. k tomu FEATHERSTONE, K. "In the Name of 'Europe'". In FEATHERSTONE, K., RADAELLI, C.M. (eds.). *The Politics of Europeanization*. Oxford: Oxford University Press, 2003, p. 5 and subsequent pages.

[6] See SNYDER, F. (ed.) *The Europeanisation of Law*. Oxford, Portland Oregon: Hart Publishing, 2000, p. 1.

[7] RADAELLI, C. M. "Europeanisation: Solution or Problem?" *European Integration Online Paper*s. 2004, p. 3 [cit. 24. 7. 2008]. Available online at: http://eiop.or.at/eiop/texte/2004-016a.htm.

[8] Cf. BAUMAN, Z. *Globalizace. Důsledky pro člověka* [*Globalisation: Implications for Humans*] Praha: Mladá fronta, 2000, p. 22 and subsequent pages.

[9] GIDDENS, A. *Sociologie*. Praha: Argo, 1999, p. 82 and subsequent pages.

[10] BECK, U. *Co je to globalizace. Omyly a odpovědi* [*What is Globalisation. Mistakes and Answers*]. Brno: CDK, 2007, p. 19.

[11] Ibid., p. 21.

[12] STEINER, H.J., ALSTON, P. *International Human Rights in Context Law, Politics, Morals*. Oxford, New York: Oxford University Press, 2000, p. 1306.

[13] Cf. DAHRENDORF, R. *Hledání nového řádu. Přednášky o politice svobody v 21. století* [*The Search for the New Order: Lectures on the Politics of Freedom in the 21st Century*]. Praha: Paseka, 2007.

[14] The expression "glocal" is a blend of "global" and "local", pointing out that what is "local" has obtained a global aspect and what is "global" comes as an interconnection between local cultures.

[15] Opus cit. sub 10, p. 125 and subsequent pages.

[16] BECK, U. *Moc a protiváha moci v globálním věku* [*Power and the Counterbalance to Power in the Global Age*]. Praha: Slon, 2007, p. 13 and subsequent pages.

[17] Cf. HUNGR, P. "Proces Globalizace a vývoj práva" ["The Process of Globalisation and the Development of Law"]. In: *Teorie práva* (kol. autorů). Praha: Linde, 2007, p. 310.

[18] SCIARRA, S. "From Strasbourg to Amsterdam: Prospects for the Convergence of European Social Rights Policy." In ALSTON, P. (ed.) *The EU and Human Rights*. Oxford, New York: Oxford University Press, 1999, p. 484.

[19] BECK, U., Opus cit. sub 16), p. 11.

[20] TWINING, W. *Globalisation and Legal Theory*. Cambridge, New York, Melbourne: Cambridge University Press, 2006, s. 223.

[21] BURNHAN, W. *Introduction to the Law and Legal System of the United States*. St Paul: Thomson/West, 2006, s. 145 an.

[22] Opus cit. sub 10), p. 182 and subsequent pages.

[23] Francis Snyder is a significant representative of The European University Institute in Florence. See SNYDER, F. "Europeanisation and Globalisation as Friends and Rivals: European Union Law in Global Economic Network." In: SNYDER, F. (ed.) *The Europeanisation of Law*. Oxford, Portland Oregon: Hart Publishing, 2000, p. 293 and subsequent pages.

[24] Cf. JAKŠ, J. "Evropeizace – šance nebo hrozba? Členské státy a architektura EU" ["Europeanization – A Chance or a Threat? Member States and Architecture of the EU"]. In DANČÁK, B., FIALA, P., HLOUŠEK, V. (eds.). *Evropeizace*. Brno: MPÚ MU, 2005, p. 117.

[25] Cf. SMITH, J.M. "The Europeanisation of National Legal Systems: Some Consequences for Legal Thinking in Civil Law Countries." In HOECKE, M.V. (ed.) *Epistemology and Methodology of Comparative Law*. Oxford: Hart Publishing, 2004, s. 229 an.

[26] LADRECH, R. *Europeanization and Political Parties: Towards a Framework for Analysis*. Keele European Parties Research Unit. Keele University. 2004, p. 3 [cit. 18. 4. 2008]. Available on: http://www.keele.ac.uk/ depts/spire.

[27] This is the tone of the speculations of some theorists who, on the one hand, realise the irreversibility of the process of the Europeanization of law, but, on the other, are sceptical about the network model of law that is coming into existence. For more details see, e.g. LASOK, Bridg: *Law and Institutions of the European Union*. 6th edition, Butterworths, 1994 and LOSANO, M.G. "Turbulenzen im Rechtssystem der moderen Gesellschaft-Pyramide, Stufenbau und Netzwerkcharakter der Rechtsordnung als Ordnungsstiftende Modelle." In *Rechtstheorie*, Berlin: Duncker–Humblot, 2007, Vol. 38., p. 12.

[28] The clash is described in this way by e.g. LOSANO, M.G. "Turbulenzen im Rechtssystem der moderen Gesellschaft-Pyramide, Stufenbau und Netzwerkcharakter der Rechtsordnung als Ordnungsstiftende Modelle." In *Rechtstheorie*, Berlin: Duncker–Humblot, 2007, Vol. 38., p. 31.

[29] Ibid., p. 27.

[30] The delimitation of the objects of the process of Europeanization was inspired by those authors who use flows, rules, and infrastructure to diagnose globalisation. For more details, see HEINS, V. "Globalizace a sociální bezpráví. Podmínky a meze humanitární politiky" ["Globalisation and Social Injustice: Conditions and Limits of Humanitarian Politics"]. In. Honneth, A. (ed.) *Zbavovat se svéprávnosti. Paradoxy současného kapitalismu*. Praha: Filosofia, 2007, p. 253.

[31] Cf. HERDEGEN, M. *Europarecht. 6. Auflage*, München: Verlag C.H.Beck, 2004. p. 1-5.

[32] Cf. e.g. LADEUR, K.-H.: "Toward a Legal Tudory of Transnationality – The Viability of the Network Concept." In. *European Law Journal*, Vol. 3, No. 1, March 1997, p. 33-57.

[33] Cf. BESSON, S. "From European Integration to European Integrity: Should European Law Speak with Just One Voice?" In. *European Law Journal*, Vol. 10, 2004, p. 263.

[34] Cf. HART, H.L.A. *Pojem práva* [*The Concept of Law*] Praha: Prostor 2004, pp. 28-29.

[35] Cf. ALEXY, R. *Begriff und Geltung des Rechts*. Freiburg-München 1994.

[36] Cf. BRANDOM, R. R. *Making It Explicit*. Harvard U.P., Cambridge, Mass., 1994, p. 622.