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Abstract:

The article discusses the problem of challenges for methodology of private law research, connected with border phenomena combining legal and extra-legal issues. The concerns in question are related not solely to the array of applicable instruments of analysis, but also to the fundamental issues of the nature of private law research and possible ways of its discourse with other disciplines of the humanities and social sciences. The remarks upon this questions has been founded upon the analysis of the problem of trust by concluding a contract in a monograph of P. Machnikowski. The article attempts to identify the core aspects of its methodological approach towards legal associations of trust – which may be rated among the aforementioned border questions – and show them against the broader background of private law research. The remarks focus primarily upon the interdisciplinary attitude towards these phenomena, presented in the P. Machnikowski's monograph. It may be considered as the efficient and prospective way of handling research problems of such a heterogenous nature, providing more thorough perspective than a classical analysis of legal texts. Hence, it may supplement the classical dogmatic method, providing a deepened insight into private law questions with a view to their social context. As the book of P. Machnikowski illustrates, it may help to integrate different legal institutions playing alike or complementary roles in the legal system and to seize their implicit interdependences and functions – not always apparent in terms of dogmatic construction. In this way, the interdisciplinary approach towards private law problems may provide useful practical tips for law-making and judicial interpretation. Last but not least, given this methodological background, the article examines also possible further steps in analysing the problem of trust, sketched by the monograph. It tends primarily to identify more general instruments (for instance, estoppel as a specific case of abuse of rights), which, potentially, could be used to fill gaps in more tailor-made legal mechanisms.