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The Constitution of the State as a Problem of Phenomenology[1]

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Apart from the explicit phenomenology, clear defined with regard to its problems and methods, there also is an implicit one which is still waiting for such a definition. As far as the phenomenology of the state is concerned, the explicit phenomenology of this social institution was developed, for example, by Edith Stein. In her *Investigations Concerning the State* Stein analysed the ontic structure of this phenomenon in its relation to ethical norms by using the methods of realistic phenomenology. Roman Ingarden, other realist phenomenologist, is regarded as a theorist in the area of aesthetics and ontology rather than being a political philosopher. What is searched for in this article with reference to

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Stein's explicit investigations is Ingarden's hidden phenomenology of the state implied by his ontological analysis of the structure, the mode of being, and the "life" of a literary work of art. In his book *The Literary Work of Art*, presented by him as an investigation on the borderlines of ontology, logic, and the theory of language, Ingarden defined very broadly this peculiar object. Insofar as he included as its borderline cases among others scientific works, letters, memoirs etc., the starting point of the reconstruction of Ingarden's implicit phenomenology of the state is the thesis that what may be also interpreted as a borderline case of that work is the state's written constitution. In reference to Ingarden's analysis of stage play as the concretisation of a piece of drama, an attempt will be made to reconstruct in terms of his ontology the relation between the state constitution and the state itself, defined in these terms as a "purely intentional object".

The Idealist and the Realist Phenomenology of the State

In order to reconstruct the specifics of Ingarden's possible approach to the problem of the state there is no other way than to take as its point of reference the actual phenomenological approaches in this problem area. Apart from Stein's phenomenology of the state mentioned above, the especially important context of any such a reconstruction presents the approach to that problem of Edmund Husserl, their joint teacher. Even though the founder of phenomenology, no different than Ingarden himself, generally did not focus his scientific attention on world-view problems, his philosophical approach to the state may be reconstructed on the basis of his numerous manuscripts. The reconstruction of Husserl's possible philosophy of the state, especially as attempted by Karl Schuhmann, turns out able both to determine its place within the "system of phenomenological philosophy" projected by him and to provide the interpretation of its specifics in a broader spectrum of views on the state within modern political philosophy.

According to Schuhmann's reconstruction, Husserl understood his analyses dedicated to the phenomenon of the state as belonging not to the domain of pure phenomenology, but to that of phenomenological philosophy

or metaphysics[2]. As a historically contingent phenomenon of facticity, the state presented from Husserl's perspective is one of the border problems of phenomenology, the full analysis of which would require taking into consideration the results of the complete system of the empirical sciences. Insofar as that system had not been fully established yet, Husserl himself considered his philosophy of the state to be temporary and provisory, designed to "asymptotically approach" the results of any rigorously scientific analysis of that problem in the endless future[3]. In contrast to the pure phenomenology of intersubjectivity, which had as its aim analyses concerning the a priori conditions of the possibility of the experience of the other as well as those of the constitution of the rational community and its inherent teleology, phenomenological philosophy or the metaphysics of the state had to analyze, in Schuhmann's interpretation, the irrationalities of the intersubjective life which made that phenomenon actually necessary[4].

What makes Husserl's philosophy of the state a significant point of reference for the reconstruction of Ingarden's approach to that problem, is its idealistic world view background. Karl Schuhmann pointed out that due to the transcendentalism of Husserl's phenomenology, his philosophy of the state also to a great extent resembled the analogous philosophy developed by the representatives of the tradition of German idealism, first of all by Johann Gottlieb Fichte. Like him, Husserl regarded human subjectivity as a "ray of the divine light"[5], the vocation of which consisted in the overcoming of its mundane alienation and pluralisation by ascending from the mere apperceptive life to the self-conscious life of the rationally self-shaping transcendental intersubjectivity. Insofar as the regulative idea of that teleology was for Husserl the intersubjective, religious at its core, a "community of love", the state played within his purely transcendental social

2 K. Schuhmann, *Husserls Staatsphilosophie*, Freiburg–München 1988, p. 105.

3 E. Husserl, *Phenomenology and the Crisis of Philosophy*, transl. Q. Lauer, New York 1965, p. 136.

4 K. Schuhmann, *Husserls Staatsphilosophie*, p. 114.

5 J. Hart, *Husserl and Fichte: With special regard to Husserl's lecture on Fichte's ideal of humanity*, "Husserl Studies" 12 (1995), p. 141.

ontology nothing but a negative role.[6] As a factual guarantor, equipped with means of coercion, of the possibility of harmonization of oft contradictory individual strivings, it had to counteract the always possible breakdown of the rational teleology inherent to the intersubjective life. The rationality of the state thus limited itself, according to both Husserl and Fichte, to the role of a negative condition of possibility of establishing the above mentioned community as the highest level of the transcendental socialization[7].

It is a well-known fact that Roman Ingarden worked out his philosophical position as one of the most headstrong critics of the transcendental idealism of Husserl's phenomenology. The specifics of his own philosophy of the state is also to be searched for nowhere else than in a kind of criticism against Husserl's political idealism. While the latter consisted in the idea of an "archontic" role of transcendental phenomenology itself, presented by Husserl as the only positive condition of possibility to attain the final goal of an intersubjective life and to make thus the state unnecessary, it is to be assumed that Ingarden would have subjected phenomenology to a more moderate duty. In the domain of philosophy as a rigorous science he saw the first task of phenomenology to be in the realistic self-reflection, including the consideration of the motifs, which led Husserl to transcendental idealism and dragged him into the absurd, in his opinion, controversy over the existence of the world. The question arises as to what assignment Ingarden would give phenomenology in the domain of world view, practical philosophy: would he be ready to oppose Husserl's idealistic philosophy of the state with a kind of a "realistic" political phenomenology?

Highly instructive in answering this question is certainly the way of dealing with the problem of the state presented by the other representatives of so-called realistic phenomenology, first of all by Edith Stein. Her political investigations, in reference to the results of her analyses from the book *Philosophy of Psychology and Humanities*, she defined as an "a priori science of the state", whose aim was to investigate the categorical

6 K. Schuhmann, *Husserls Staatsphilosophie*, p. 114.
7 K. Schuhmann, *Husserls Staatsphilosophie*, p. 114.

structuration of that political reality[8]. In contrast to the positivist theory of the state, focussing on the social and historical facts of the state's life and among them on the factual norms that used to be regarded within this life as binding, the a priori science of the state was defined by Stein as its ontology. For her its aim was an "examination free of value perspectives, what the state really is"[9], which had to explain its unreflectively accepted concept by analysing the mental content of this political entity as an eidetic unit. Insofar as Stein, just like the other object-oriented phenomenologists would do, limited her analyses of the state to its thorough, metaphysically unbiased, phenomenological description, one should assume, that equally Ingarden's phenomenology of the state would turn out to be realistic at least in this sense. Something that does not certainly mean he would have shown, as a supposedly realistic phenomenologist, any kind of "political realism" within this field of investigation.

The State as an Intentional Object

If we take into account the strategy followed by Ingarden in his criticism of transcendental idealism, his first question regarding the state would concern, as it seems, not so much what the state really is, but rather its mode of being in itself[10]. What makes this question the compelling starting point of his philosophy of the state is the fact that the structural element of Ingarden's version of phenomenology was from the very beginning the distinction made by him between not only "real" and "ideal", but also, as he put it after Husserl, an "intentional" mode of being. Ingarden presented this distinction as "closely connected to the problem of idealism-realism",

8 E. Stein, *Philosophy of Psychology and Humanities*, transl. M. Sawicki, Washington 2000, p. 303.

9 E. Stein, *An Investigation Concerning the State*, transl. M. C. Baseheart, M. Sawicki, Washington 2006, p. 93.

10 The article develops in the following part the argumentation presented in: A. Gniazdowski, *Państwo jako przedmiot intencjonalny*, in: *Doświadczanie świata. Eseje o myśli Romana Ingardena*, ed. T. Maślanka, Warszawa 2020, p. 103–119.

with which he had been concern for many years[11]. In the context of his criticism of the phenomenological idealism he justified the idea of contrasting real and intentional objects by the necessity of challenging Husserl's attempt, as he wrote, "to conceive the real world and its elements as purely intentional objectivities which have their ontic and determining basis in the depths of the pure consciousness that constitutes them"[12].

A certain guiding thread in answering the question about the real or intentional mode of being of the state as well as in identifying the further structural elements of Ingarden's political philosophy are provided by his analyses on the mode of being of the literary work of art. In the introduction to his first book on this subject, where he cracked down on the problem of the transcendental idealism of phenomenology possibly the most creatively, Ingarden admitted that the ultimate motives for his analysis of this work's mode of being were of a general philosophical nature and that this analysis was for him not a goal in itself. What his book *The Literary Work of Art* attempted was at preparing a responsible approach to the main metaphysical problem, i.e., the conflict between idealism and realism, as solved by Husserl, according to him while disregarding "different groups of very involved problems, which must be distinguished, individually highlighted, and worked out before"[13]. Ingarden argued that the necessary condition for the possibility to refute Husserl's theory, which reduced, in his interpretation, the real world to a pure intentional object, was "to indicate the essential structure and the mode of existence" of just such an object. And it is precisely to this end – in order to examine, "whether real objectivities can, according to their own nature, have the same structure and the mode of being", as Ingarden explained in the introduction to his book – he has sought "an object whose pure intentionality was beyond any doubt and on the basis of which one could study the essential structures and the mode of

11 R. Ingarden, *The Literary Work of Art. An Investigation on the Borderlines of Ontology, Logic, and Theory of Literature. With an Appendix on the Functions of Language in Theater*, transl. G. G. Grabowicz, Evanston 1973, p. lxxii.

12 R. Ingarden, *The Literary Work of Art*, p. lxxii.

13 R. Ingarden, *The Literary Work of Art*, p. lxxii.

existence of the purely intentional object without being subject to suggestions stemming from considerations of real objectivities"[14].

The premise of the investigation concerning the possibility of Ingarden's philosophy of the state is whether his ultimate end, consisting in a refutation of Husserl's idealism, could not have been attained by studying the structure of also some other purely intentional object. Admittedly, from the point of view of Ingarden's general aim, the choice of the state as an object for such an analysis is not initially compelling. While taking into account the historical significance of the state as well as the overpowering role played by this phenomenon in every man's life, its pure intentionality seems to be more than doubtful. It is also out of the question that while studying the structure of the state, it is almost impossible not to be subject to prejudices stemming from considerations of real objectivities. Among the numerous suggestions which advance themselves as possible answers to the question as to what the state really is, a considerable role is played by such objectivities as public edifices, military forces, officials and functionaries, monuments, emblems and flags. Nonetheless, the question arises as to what extent the state with its mode of existence reduces itself to these real or, as Ingarden would also have put it, existentially autonomous objects of natural experience.

If Ingarden's approach to the mode of existence of a literary work of art is taken into account, it is out of the question that the state cannot be determined from his perspective as either real, or ideal object. While considering the problem of a literary work's mode of existence, Ingarden stated that the division of all objects into the real and the ideal seems to be, indeed, a division that is most general and, simultaneously, most complete"[15]. However, as he pointed out, if one could assume only these two spheres of objects, "then the problem of the literary work's mode of existence and its identity would not admit a positive solution, and one would have to deny the existence of the literary work altogether"[16]. Confronted with this difficulty,

14 R. Ingarden, *The Literary Work of Art*, p. lxxii.
15 R. Ingarden, *The Literary Work of Art*, p. 9.
16 R. Ingarden, *The Literary Work of Art*, p. 19.

Ingarden determined the mode of existence of this work as intentional in the sense of something existentially heteronomous, that is being opposed to everything, "which in itself is ontically autonomous and at the same time ontically independent of any cognitive act directed at it"[17]. Insofar as he defined a literary work of art as intentional in this most general sense, that is in opposition to both the real and the ideal, but for existentially autonomous objects like stones or – for the "realists" like Plato – triangles, nothing stands in the way of applying that recognition also to the analysis of the state's ontological status. As certainly one of the existentially heteronomous objectivities, defined by Ingarden in *The Controversy over the Existence of the World* as having "its existential foundation outside of itself"[18], the state is to be described from his point of view as belonging to the category of intentional objects such as not only various types of works of art, but also "social and national institutions, legal statutes, etc."[19].

Phenomenological and Political Concept of the Constitution

It is not quite by accident that the basic phenomenological concept and the basic concept of modern state theory – the constitution – are denoted, at least in English, by the same word. At their core, they are not just homonyms, but they mean in different contexts the same. If the transcendental phenomenology, in Ingarden's interpretation, proclaims the constitution of the real world in "the depths" or, as Husserl himself would have put it, in the intentional acts of the pure consciousness, and if modern political theory calls fundamental today the mostly written legal act which defines the system of the state, its constitution, it is by no means about mere equivocation or metaphor. What is meant in both cases is a kind of foundational activity, determining the essential structure of an object or

17 R. Ingarden, *The Literary Work of Art*, p. 10.
18 R. Ingarden, *Controversy over the Existence of the World*, vol. 1, transl. A. Szylewicz, Frankfurt am Main 2013, p. 110.
19 R. Ingarden, *Controversy over the Existence of the World*, p. 114.

of an entity. Therefore, even though in German one uses different words regarding the intentional constitution (*Konstitution*) and the political constitution (*Verfassung*), this does not explain why even these early phenomenologists, who dealt in their writings with political issues, did not research the constitution in its constitutive role for the state. Among them was also Edith Stein, who directly investigated the constitution of the state in the phenomenological sense, and recognized as constitutive for the state its communal sovereignty and not its constitution in the political meaning of the word. As she wrote, "the state is no mere product of a law-making act (even though the legal constitution first makes it into the state in the full sense), but rather is linked to a preceding development of community"[20].

Putting aside the question, what kind of realism – phenomenological or political – is to be regarded as the standpoint taken by Edith Stein in her *Investigation Concerning the State*, it is indisputable that the constitution as a written legal act belongs to the most significant problems not only of her attempted, realistic political phenomenology. If we ask ourselves in our natural attitude, "what is the state really?" – and we mean by that not the state in general, but the one where we live – we also seek the answer to this question nowhere else, but in its constitution. As a matter of fact, even if we put the question about the essence of the state as such and do so as transcendental phenomenologists, while taking the call "back to the things themselves" seriously, as a starting point for our investigation the historical philosophies of the state and the historical definitions of this essence do not occur to us. The proper thing of this research and the object of the pertinent eidetic analyses are also from this perspective the objectivities within that "'region' of empirical objects"[21], to the extension of which belong the empirical sciences of the state and law, that are concrete state constitutions.

20 E. Stein, *An Investigation Concerning the State*, p. 71.

21 E. Husserl, *Ideas Pertaining to a Pure Phenomenology and to a Pure Phenomenological Philosophy. First Book. General Introduction to a Pure Phenomenology*, transl. F. Kersten, The Hague 1982, p. 18.

Of course, equally today not every political entity recognized as a state is a constitutional state or a so-called state of law. For Stein as also for contemporary theorists of the state, constitutional law is not therefore their exclusive or even basic research subject[22]. Insofar as Stein investigated the "ontic fabric" of the state shortly after the fall of the German Empire, she felt compelled to note that although "the dominant European political theory" of that time was contract theory which regarded the state "as being grounded in a pact among the individuals belonging to it"[23], it did approach the problem of the state's constitution, in every possible sense of this word, by no means impartially. Stein has pointed out that "this theory neglects obvious phenomena of state formation, and of the life of a state, that don't fit in with its scheme"[24]. Stein's remark on the necessity of "putting into brackets" the liberal presuppositions regarding the fabric of the state is, of course, noteworthy. Nevertheless, it is also out of the question that important, both methodological and – especially today – substantial reasons speak out for regarding the state constitution as an unavoidable starting point for the phenomenological investigation into the ontology of the state.

The main premise of such an investigation from beyond Ingarden's phenomenology is Husserl's recognition mentioned above that "*any science of matters of fact*" – in this concrete case: the constitutional theory – "has essential theoretical foundations in eidetic ontologies"[25]. The first and perhaps the most important attempt at working out an eidetic, regional ontology so understood and one related to the positivist theory of law, which determined to a great extent the future phenomenological approaches to this problem, was Adolph Reinach's *The A priori Foundations of the Civil Law*[26]. Apart from Edith Stein, who dedicated the whole second chapter of her *Investigation* to the problem of the relationship between the state

22 H. Stein, *Staatsrecht*, in: *Historisches Wörterbuch der Philosophie*, ed. K. Gründer, Bd. 10, Basel 1998, p. 75.
23 E. Stein, *An Investigation Concerning the State*, p. 4.
24 E. Stein, *An Investigation Concerning the State*, p. 4.
25 E. Husserl, *Ideas Pertaining to a Pure Phenomenology*, p. 18.
26 A. Reinach, *The Apriori Foundations of the Civil Law*, transl. J. Crosby, Berlin 2012.

and law, Husserl's son, Gerhart Husserl, equally defined the "constitution of the legal community" in the political meaning of this word as "a region of the law, where the law unites itself to a whole"[27]. Despite the fact that isolated phenomenological analyses that attempt to lay theoretical foundations to the legal sciences have grown from then to the well-established "phenomenology of law"[28], there are also premises from inside Ingarden's philosophical work for making use of his recognitions in the specific context of constitutional theory. The most important of these is his idea of the stratified structure of a literary work of art and the attention paid by him to the problem of the relation of this work regarded as "an objectivity in itself" to "what is constituted during the reading"[29]. The results of these aesthetical investigations by Ingarden appear able to shed some light especially on the problematic relationship of a "legal constitution" to the "state in the full sense".

What Really Is a State Constitution?

In order to avoid the danger of simple ontological analogies in answering the question as to the relation between the state and its constitution – primarily the question, to what extent, in speaking with Stein, the constitution "makes" the state – there is no other way than to ask first what the state constitution is from the perspective of realistic phenomenology. Since, as mentioned above, by the constitution of the state is meant today concretely nothing but some "document" in the sense of a written legal act, Ingarden's analyses concerning the structure and the mode of existence of a literary work of art turn out undoubtedly of direct relevance in answering this question. They seem to be particularly instructive for the attempt to place the constitution as a written act amongst the other types of "literary works" Ingarden took into consideration.

27 G. Husserl, *Recht und Welt*, in: *Festschrift Edmund Husserl zum 70. Geburtstag gewidmet*, Halle 1929, p. 136.
28 S. Loidolt, *Einführung in die Rechtsphänomenologie*, Tübingen 2010.
29 R. Ingarden, *The Literary Work of Art*, p. 331–332.

Although Ingarden was not interested in determining the place of literary work within some broader category, for example that of a "mere written work"[30], he understood this key word within his aesthetics quite broadly. Despite the fact that in his analyses into the theory of literature he was reluctant to define the qualities which decide about the "literariness" of a piece of work, he delivered, however, some suggestions in regard to the relationship of a literary work to other, so to say neighbouring written works. "We are using the expression 'a literary work'", Ingarden wrote in the *Introduction*, "to denote any work of so-called belles-lettres regardless of whether it is a genuine work of art or merely worthless"[31]. While beginning with a provisional delimitation of the range of these works, he declared, that along with examples like "the serialized crime novel or a schoolboy's banal poem […], there are others which we should not ignore, even though we may doubt as to whether they have anything to do with 'literary works'"[32]. As examples of such works Ingarden mentioned first of all "scientific works", but also "newspaper articles […], diaries, autobiographies, memoirs"[33]. He stated as well, that "other types of questionable examples are provided by cinematic works (comedies, dramas, and so on), pantomimes, and also staged theatrical works"[34].

If one were to take into consideration this broad range of works regarded by Ingarden as "literary", the question arises as to whether there exist plausible reasons to not include state constitutions within the scope of such works. One would be justly sceptical of Ingarden's inclination to understand the term "work of art" as broadly as, for example, Hegel, who in his *Lectures on the Philosophy of History* wrote also about the state as a kind of a "political work of art"[35]. Nevertheless, even though Ingarden stressed in relation to the scientific works that they are "clearly distinguishable" from belles-lettres, he simultaneously noted that they are frequently compared

30 R. Ingarden, *The Literary Work of Art*, p. 287.
31 R. Ingarden, *The Literary Work of Art*, p. 3.
32 R. Ingarden, *The Literary Work of Art*, p. 8–9.
33 R. Ingarden, *The Literary Work of Art*, p. 9.
34 R. Ingarden, *The Literary Work of Art*, p. 9.
35 G. W. F. Hegel, *The Philosophy of History*, transl. J. Sibree, Ontario 2001, p. 268.

with them or even considered to be "essentially the same"[36]. Consequently from Ingarden's perspective the way to investigation on the borderline of ontology, logic and constitutional theory appears rather open. To the same extent to the scientific, as to the politic work seems to be possible to refer Ingarden's thesis, that "it differs in various respects from literary works of art, even though it is relatively close to it"[37].

It is therefore not overly risky to assume that in a similar way to an scientific work, the constitution as a political work is equally to be recognized, from Ingarden's perspective, as an "important borderline case of a literary work"[38]. The main difference between these three types of work – literary, scientific and political – seems to consist in the different sentence functions appearing in each. While distinguishing a literary work from an scientific one Ingarden noticed that in contrast to this latter, where declarative sentences, that is affirmative propositions, "are genuine *judgements* in a logical sense, in which something is seriously asserted and which not only lay claim to truth but *are* truth or false", sentences appearing in a literary work are specified as "only quasi-judgmental assertive propositions"[39]. In not being pure affirmative propositions "they carry with them […] a suggestive power which, as we read, allows us to plunge into the simulated world and live in it as in a world peculiarly unreal and yet having the appearance of reality"[40].

Differently from sentences appearing in literary and scientific works, the sentences which the articles of state constitutions consist of – for example, "The Republic of Poland shall be a democratic state ruled by law" – are, from Ingarden's perspective, neither quasi-judgmental assertive propositions, nor judgements in a logical sense. In stating that "every sentence is the result of a subjective sentence-forming operation"[41], Ingarden hinted, however, at some concrete function specific to these sentences. In determining

36 R. Ingarden, *The Literary Work of Art*, p. 9.
37 R. Ingarden, *The Literary Work of Art*, p. 328.
38 R. Ingarden, *The Literary Work of Art*, p. 328.
39 R. Ingarden, *The Literary Work of Art*, p. 171.
40 R. Ingarden, *The Literary Work of Art*, p. 172.
41 R. Ingarden, *The Literary Work of Art*, p. 110.

the possible functions of sentence-forming operations, he noticed that such an operation not only "can be at the service of a cognitive operation or a simple exchange of information between several psychic individuals"[42]. Apart from its scientific and communicative, but also literary use, that is being "simply for the purpose of fixing the results of the free play of imagination", the sentence-forming operation "can also be used as the medium for influencing another psychic individual (e.g. political agitation, etc.)"[43]. Referencing the differentiation of sentences, initially acknowledged by Ingarden in general characteristics into "sentences which express 'judgments', 'questions', 'desires' or 'commands'"[44], those that form the articles of constitutions are rated within the last type. That is if we are to accept as the guiding thread of our constitutional investigation the basic statement of legal positivism that the "law is the command of the sovereign"[45].

Prospect: the State as a Concretisation of the State Constitution

The relationship between the constitution as a borderline case of a literary work so understood and the state as a existentially heteronomous, intentional object is a separate and, as it seems, not only theoretically, but also politically significant field of investigation. The route to analysis can only pave the detailed reconstruction of the possible determination of the state's mode of existence from the post-Ingardenian perspective, which would take into account the whole complexity of Ingarden's ontology. The hypothesis, according to which the state had to be nothing but an intentional object, would for sure require far reaching reservations and delimitations. Indispensable in this context would be to take into consideration Ingarden's distinction between "pure intentional objects", which are "in a figurative sense 'created' by an act of consciousness", and "also intentional objects",

42 R. Ingarden, *The Literary Work of Art*, p. 110.
43 R. Ingarden, *The Literary Work of Art*, p. 110.
44 R. Ingarden, *The Literary Work of Art*, p. 107.
45 J. Austin, *The Province of Jurisprudence Determined*, Cambridge 1995.

for which it is entirely accidental, that they become "targets of conscious acts"[46]. Taken into account should also be Ingarden's distinction between "originally" pure intentional objects that draw their source "directly from concrete acts of consciousness effected by an ego"[47], and "derived" purely intentional objects that "as correlates of meaning units, are 'intersubjective': they can be intended or apprehended by various conscious subjects as identically the same"[48].

An especially important guiding thread for analyses aiming at (re)-construction of post-Ingardenian political ontology could be provided by Ingarden's investigation into the "life" of a literary work. His analyses of a literary work of art as "an objectivity in itself", focussed on the distinguishing and determining the role of the different "strata" within its structure, turn out to be instructive for primarily understanding the "essence" of the state constitution among other written works. In order to understand, how the relationship of the constitution as a specific objectivity in itself to the state as an intentional object would present itself from the point of view of Ingarden's aesthetics, it is worth paying attention to his attempt to introduce a literary work "into a concrete spiritual and cultural life"[49]. Meant by that is nothing less than bringing back this work, and thus also the state constitution as a written legal act, "into contact with the reader"[50].

The theoretical basis of Ingarden's investigation in this problem area is his recognition that each purely literary work, when detached from that contact, "is a formation that is *schematic* in various respects, containing 'gaps', spots of indeterminacy, schematized aspects, etc."[51]. Exactly this feature of the literarily represented world, making it "radically different from every real as well as every ideal ontically autonomous object"[52], is presented by him, on the one hand, as the main argument against Husserl's

46 R. Ingarden, *The Literary Work of Art*, p. 117.
47 R. Ingarden, *The Literary Work of Art*, p. 117.
48 R. Ingarden, *The Literary Work of Art*, p. 126.
49 R. Ingarden, *The Literary Work of Art*, p. 331.
50 R. Ingarden, *The Literary Work of Art*, p. 331.
51 R. Ingarden, *The Literary Work of Art*, p. 331.
52 R. Ingarden, *The Literary Work of Art*, p. 251.

transcendental idealism. On the other hand, Ingarden pointed out the importance of such recognition not only for the theory of literature. While stating that every literary work taken as objectivity is in itself principally "incomplete and always in need of further supplementation", he noticed that every scientific work is also a literary work of a particular kind and that this has very important consequences for the theory of science[53]. There is no need to stress that his remark allows one to assume that insofar as state constitution may be also interpreted as a borderline case of this work, the same incompleteness of this written legal act must have at least same important consequences for the theory of the state.

The category introduced by Ingarden in this context and that appears possible to apply most directly in investigating the relationship between the state constitution and the state itself, is that of "concretisation". By concretisation he meant "what is constituted during the reading and what, in a manner of speaking, forms the mode of appearance of a work, the concrete form in which the work itself is apprehended"[54]. While analysing the "life" of a literary work of art, Ingarden stressed that the same literary work can allow "any number of concretisations", which frequently differ significantly not only from the work itself, but also amongst themselves[55]. In order to determine the ontological status of a literary work's concretisation, he compared this existentially heteronomous, purely intentional, but not merely mental objectivity to a rainbow. As he wrote, "just as a rainbow is not something psychic, even though it exists concretely only when a visual perception is effected under certain objective circumstances, so also the concretisation of a literary work, though it is conditioned in its existence by corresponding experiences, has at the same time its second basis in the literary work itself"[56].

Particularly instructive for any reconstruction of the possibilities emerging from Ingarden's aesthetics for analysis of the "life" of a state

53 R. Ingarden, *The Literary Work of Art*, p. 251.
54 R. Ingarden, *The Literary Work of Art*, p. 332.
55 R. Ingarden, *The Literary Work of Art*, p. 252.
56 R. Ingarden, *The Literary Work of Art*, p. 335–336.

constitution might be that from amongst the borderline cases of a literary work taken into consideration, the constitution displays the most similarity to written "dramatic" works[57]. From the point of view of the distinction made by Ingarden within the written drama of the main text consisting of sentences that are "'really' spoken by the represented characters", and the stage directions in the play, consisting of "information given by the author for the production of the work"[58], a constitution – and its functional counterparts in those states not being constitutional states – would allow one to be determined as a kind of *didascalia* of social life. Recognition of a stage play as a guiding investigative thread into the relationship between a state constitution and a state itself would raise – after Ingarden, but also after Stein – particularly the question of whether the state is to be recognized as a "special kind of concretisation" of its constitution, or as something that is totally "different from it"[59].

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Abstract

Constitution of the State as a Problem of Phenomenology

Roman Ingarden the early phenomenologist is regarded as a theorist in the area of aesthetics and ontology rather than being a political philosopher. The aim of the article is to reconstruct a non-existent philosophy of the state, one that could have been developed by Ingarden by taking as a starting point his ontological analysis of the structure of a literary work of art. In his book of 1931 Ingarden defined very broadly the literary work of art, including as its borderline cases among others scientific works, letters, memoirs etc. The thesis of the article is that state constitution may be also interpreted as a borderline case of that work. In reference to Ingarden's analysis of stage play as the concretisation of a piece of drama, an attempt will be made to reconstruct in terms of his ontology the relation between the state constitution and the state itself.

Keywords: phenomenology, ontology, political philosophy, literary work of art, state constitution

Abstrakt

Konstytucja państwa jako problem fenomenologii

Wczesny fenomenolog Roman Ingarden uważany jest raczej za teoretyka z dziedziny estetyki i ontologii niż filozofa politycznego. Celem artykułu jest rekonstrukcja nieistniejącej filozofii państwa, która mogłaby być rozwijana przez Ingardena, biorąc za punkt wyjścia jego analizy ontologiczne struktury dzieła literackiego. W swojej książce z 1931 roku Ingarden zdefiniował pojęcie dzieła literackiego bardzo szeroko, włączając do niego jako jego przypadki graniczne między innymi dzieła naukowe, listy itp. Tezą artykułu jest twierdzenie, że jako przypadek graniczny dzieła literackiego może być interpretowana również konstytucja państwa. W nawiązaniu do analiz Ingardena dotyczących spektaklu jako konkretyzacji sztuki teatralnej, w artykule podjęta zostanie próba rekonstrukcji w kategoriach jego ontologii relacji pomiędzy konstytucją państwa a samym państwem.

Słowa kluczowe: fenomenologia, ontologia, filozofia polityczna, dzieło literackie, konstytucja państwa