



Multilingualism as a homeland. A reflection on the use of French in the study and practice of law at the Max Planck Institute for International Law in Heidelberg and beyond

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Multilingualism at the Institute: In the 1970s, international conferences were held in German, English and French (here Hans Krück at the colloquium "Koalitionsfreiheit des Arbeitnehmers" in 1978)¹

Language is the cornerstone of all legal thought and practice.² In fact, it is the most important tool of lawyers, enabling them to develop ideas, present arguments and, more generally, to (re-) shape the legal framework. In other words, a lawyer's competence is also measured by his or her command of the language. The importance of this linguistic proficiency lies in the ambiguity of (international) legal rules, as Guy de Lacharrière, former French judge at the ICJ, reminds us in his classic work "La politique juridique extérieure", published in 1983.

¹ Photo : MPIL.

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Language – (far) more than another tool in the box

However, it would be simplistic to think of language as a mere tool. It is much more than that. Language impregnates our identity and provides a socio-cultural frame of reference that goes beyond its nominative nature. As Albert Camus said: “I have a homeland: the French language.”³ Language is therefore an important vector of identity and culture, including in the legal context. Given this characteristic of identity and culture, the choice of one language over another has a significant impact on legal thought and practice.

When reading the same judgment in French and English, for instance, one quickly realises that the respective texts not only diverge linguistically, but also convey a different legal culture, sometimes even a different conception of law. Consider, for example, the *Les Verts* judgment of the Court of Justice of the European Communities (ECJ) of 1986. The French version of the decision refers to a “communauté de droit” (lit. legal community) (later transformed into a “Union de droit” (lit. legal union)), while the English version refers to a “Community [Union] based on the rule of law”. We all know that the *Etat de droit* concept (adapted by the Court to suit the European polity, i.e. the community and then the Union), which is dear to civil law systems, on the one hand, and the concept of the rule of law used by common law systems, on the other hand, differ in many respects. To think that languages (of law) are simply interchangeable means to fall back on the myth of linguistic equivalence, as Jacqueline Mowbray skilfully demonstrates. Consequently, the use of a particular language can open up to its user not only a lexical field, but also and above all a conceptual and intellectual dimension, which may even have a legal-political dimension.

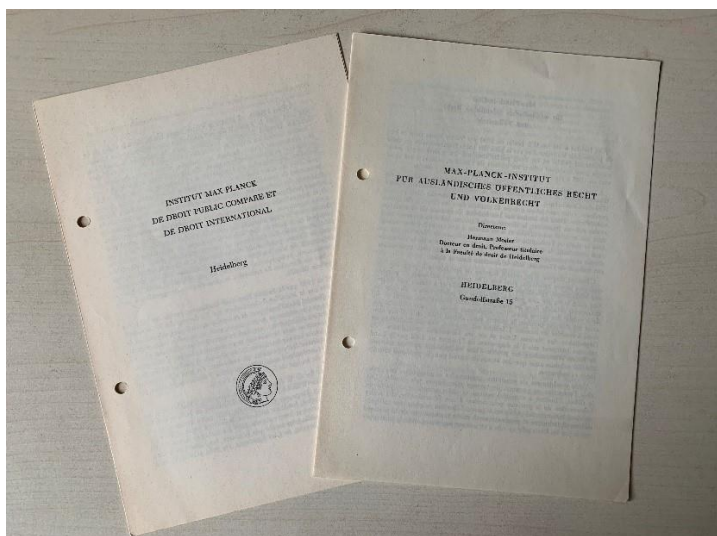
For historical reasons, French enjoys a privileged status in international and European Union (EU) law. Today, this is reflected in the use of the French language as one or, in some cases, the only working language in major international judicial institutions (in alphabetical order: CJEU, ECHR, ICC, ICJ, ICTR, ICTY). The linguistic dimension of legal proceedings also raises questions of linguistic justice. What is more, French is the working language of many international institutions, including the United Nations Secretariat, as well as academic entities such as the Institut de droit international (Institute of International Law). While some may consider this linguistic privilege to be obsolete, the fact remains that it persists and permeates international and EU law. Indeed, the working language is closely linked to the language of reasoning, which means that reasoning takes place within a given legal framework (in this case, French). And without any aspiration to glorify French law, it is undeniable that it has left significant traces in many other legal systems in Europe and beyond, notably through the Napoleonic Code. It is therefore an asset for any “internationalist”, “Europeanist” or “comparatist” to be able to speak, read and write French for many reasons.

³ In French, Camus’ statement reads as follows: “J’ai une patrie: la langue française.”





The decline of French (law) at the Heidelberg Institute



In the 1950s and 1960s, French was still one of the main foreign languages spoken at the institute. Two brochures presenting the institute and its work bear witness to this.

Despite this (relative) importance of the French language for the practice of international and European law, French and the study of francophone legal systems are scarce at the Max Planck Institute for International Law (MPIL) in Heidelberg.

To arrive at this conclusion, I plunged – with the support of my brave (student) assistant – into the Institute’s very extensive archives covering the last 100 years. We studied inter alia the protocols of the Monday Meeting (*Referentenbesprechung*), searched journal and library registers for

publications by Institute researchers in French or on French-speaking law, deciphered the handwriting of Victor Bruns in his French-language correspondence with his peers, unpacked staples of legal opinions, collected testimonials from (former) Institute researchers, and turned over numerous pages of various activity reports. This exploration of the archives is by no means exhaustive (and doubtless not free from statistical error), but it does provide some interesting insights.

Apart from a few conferences linking members of the Institute to francophone scholars, the points of contact with the francophone legal community remain sporadic, even if the institutional framework is there, such as the Franco-German academic partnership [HeiParisMax](#), set up in 2015. Much more frequent are, indeed, scholarly exchanges and collaborations with Spanish-, Italian- and of course English-speaking researchers and institutions.

It should also be noted that very few French-speaking scholars come to pursue or deepen their research at the Institute, which also explains the low activity of the [Francophone Forum](#) with an average of one or two presentations per year: the unofficial statistics of the Institute’s international officer Mrs Stadler show that, on an



Good old days? Hermann Mosler and Suzanne Bastid, the first female law professor in France, at the “Judicial Settlement” conference in Heidelberg in 1972 (Foto: MPIL)





annual average, only four researchers, whose working language is French, use the reading room of the Institute or work at the MPIL as guests, which is five times fewer than in the 1990s, according to the activity reports (*Tätigkeitsberichte*) of that time. This also contrasts significantly with the dozens of Spanish-speaking and hundreds of English-speaking scholars pursuing their research at the Institute these days. It should be borne in mind, however, that in the past, two French-speaking members have been part of the Scientific Advisory Board (*Fachbeirat*): Pierre Pescatore, Judge at the CJEC, in the 1970s, and Evelyne Lagrange, Professor at the Sorbonne university, in the 2010s. (The latter is still an external scientific member of the Institute today.)

Likewise, France and its legal order, as well as francophone legal systems, have (become) rather rare as objects of study at the Heidelberg Institute. This is evidenced by the low frequency of presentations on French legal news within the framework of the Monday Meeting (*Montagsrunde*, formerly called *Referentenbesprechung*), which are currently limited to a maximum of one or two annual presentations (see table 1 below). This means that the legal developments in francophone legal systems, including France, Belgium, parts of Switzerland and Canada as well as – importantly – French-speaking Africa (covering the Maghreb and big parts of sub-Saharan Africa), have virtually no resonance in the Institute, even though there are enough topics to cover. Hence, the successive *coups d'Etat* in the Sahel region, for example, go largely unnoticed (or at least without academic follow-up) at the Institute.

Year	Number of presentations on matters of French law
2023	2 (cases before the ECHR against France)
2022	0
2021	1 (case before the ICJ involving France)
2020	2
2019	2 (including 1 case before the CJEU against France)
2018	2 (including 1 case before the ICJ involving France)
2017	1
2016	2
2015	1
2014	1 (case before the CJEU against France)
2013	2
2012	1
2011	0
2010	2
2009	1 (case before the CJEU against France)
2008	5 (including 1 case before the ICJ against France and 1 case before the ECHR against France)
2007	6 (including 1 case before the CJEU against France)
2006	7
2005	5 (including 1 case before the ECHR against France and 1 case before the CJEU against France)
2004	2
2003	3 (including 1 case before the CJEU against France)

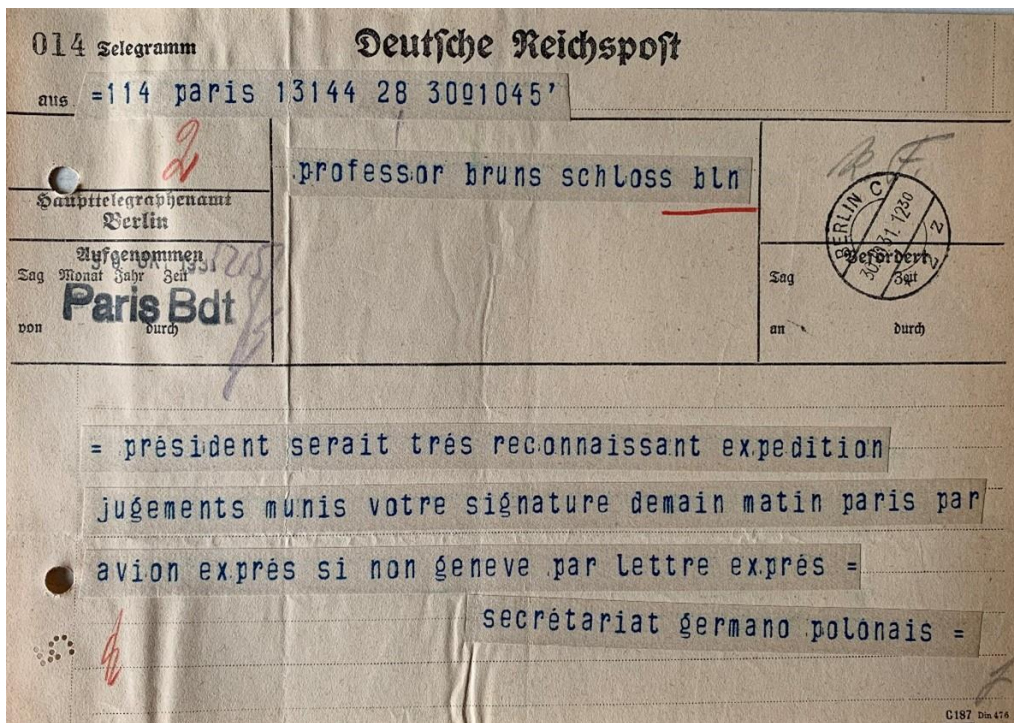
Table 1. Presentations delivered during the Monday Meeting on subjects of French law (in the broadest sense)





An exception to the invisibility of French and francophone law and current legal events is the contribution of French-speaking colleagues to comparative collective works, particularly in the context of the *Ius Publicum Europaeum* project. However, these publications are written in either English or German. On the other hand, it has become very rare for MPIL researchers to publish in French (nowadays). The situation was different twenty or thirty years ago. Until the late 1980s, for example, the Institute regularly published trilingual collections (German, French, English) in the *Schwarze Reihe*. In fact, between 2002 and 2021, the *Schwarze Reihe* had no publications in French. Today, on average, 1.5 publications (all types of output – article, chapter, blog – taken together) is published in French per year by one of the Institute’s roughly 50 researchers. Since 2000, only one French-language article has been published in the *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (ZaöRV) on a question of Mauritanian law. The picture is brighter for the Journal of the History of International Law/ *Revue d’histoire du droit international*, where the latest contributions in French date back to 2020. Articles in German (or English) on French or francophone law published in these two journals can be counted on the fingers of two (small) hands. There have been a few reviews of monographs and collective works published in French, though. All things considered, French is far from being a research language at the Institute, let alone a working language (even at the tertiary level, after German and English).

Analysis of language practices and skills



Telegram from Paul Lachenal, President of the German-Polish Court of Arbitration, to German arbitrator Viktor Bruns. The court’s correspondence and work were conducted exclusively in French.





This linguistic reality contrasts sharply with the situation in the past. In the inter-war period, for example, Director Viktor Bruns dealt exclusively in French with cases related to the German-Polish Mixed Arbitral Tribunal, which was established under the provisions of the Versailles Peace Treaty and of which he was a member. What is more, Directors Hermann Mosler – as a judge at the ECHR (1959-80) and the ICJ (1976-85) – and Jochen Frowein – as a member of the European Commission of Human Rights in Strasbourg (1973-93) – carried out a large part of their (para-) judicial work in French.

It should also be noted that the Institute’s researchers have generally written reports and opinions on French law. Leaving aside all the opinions on the European Coal and Steel Community (ECSC) and on the pursuit of European integration, on matters concerning the law of war, on the Council of Europe which (also) had a link with France, and all opinions of comparative law, there are 13 opinions from 1949 to 1998 which deal exclusively with questions of French law, two thirds of which were drafted in the 1950s (see table 2 below). However, those expert reports seem to have been discontinued since 1998, when Jochen Frowein and Matthias Hartwig produced their report on the legal situation of the cultural goods seized or expropriated by France.

Year	Title [with English translation]	Authors
1998	<i>Rechtslage der von Frankreich beschlagnahmten bzw. enteigneten Kulturgüter</i> [Legal situation of cultural goods seized or expropriated by France]	Jochen A. Frowein and Matthias Hartwig
1997	<i>Vereinbarkeit des Gesetzes über die Rechtsstellung der Banque de France mit dem EG-Vertrag</i> [Compatibility of the Law on the Statute of the <i>Banque de France</i> with the EC Treaty]	Jochen A. Frowein, Peter Rädler, Georg Ress and Rüdiger Wolfrum
1981	<i>Rücknahme und Widerruf von begünstigenden Verwaltungsakten in Frankreich, Großbritannien, Italien und den Niederlanden</i> [Withdrawal and revocation of favourable administrative acts in France, Great Britain, Italy and the Netherlands]	Karin Oellers-Frahm, Rudolf Dolzer, Rolf Kühner, Hans-Heinrich Lindemann and Werner Meng
1962	<i>Entschädigungssache des Herrn Jaques Sztern, Paris / Land Nordrhein-Westfalen</i> [Claim for compensation from Mr Jaques Sztern, Paris / Land of North Rhine-Westphalia]	Fritz Münch
1957	<i>Communauté de Navigation Française Rhénane – Land Rheinland-Pfalz betr. Staatshaftung</i> [Communauté de Navigation Française Rhénane – Land of Rhineland-Palatinate with regard to State liability].	Günther Jaenicke
1956	<i>Welches Erbrecht ist beim Tode eines aus rassistischen Gründen emigrierten früheren deutschen Staatsangehörigen, der in Frankreich lebte und in Auschwitz ums Leben kam, von dem deutschen Nachlassgericht für die Erteilung eines gegenständlich beschränkten Erbscheines anzuwenden?</i> [What law of succession applies to the death of a former German national who emigrated for racial reasons, who lived in France and died in Auschwitz, for the purpose of issuing a certificate of inheritance?]	Günther Jaenicke





1956	<i>Der Rentenanspruch des unehelichen Kindes eines in französischen Diensten gefallenen deutschen Fremdenlegionärs gegen den französischen Staat</i> [The pension entitlement of the illegitimate child of a German legionnaire who died in the service of France against the French state]	Günther Jaenicke
1955	<i>Zulässigkeit des Elsässischen Rheinseitenkanals</i> [Lawfulness of the Lateral Rhine Canal in Alsace]	Günther Jaenicke
1954	<i>Die völkerrechtliche und staatsrechtliche Stellung des Saargebietes</i> [Saarland's status in international and public law]	Carl Bilfinger, Günther Jaenicke and Karl Doehring
1953	<i>Die völkerrechtliche und staatsrechtliche Stellung des Saargebietes</i> [Saarland's status in international and public law]	Günther Jaenicke and Karl Doehring
1952	<i>Die Stellung des Saargebietes als assoziiertes Mitglied des Europarates</i> [Saarland's position as an associate member of the Council of Europe]	Günther Jaenicke
1951	<i>Bürger und Wehrmacht in Frankreich</i> [Citizens and the Wehrmacht in France]	Hans Ballreich
1951	<i>Die rechtliche Stellung der politischen Parteien in Frankreich</i> [The legal status of political parties in France]	Günther Jaenicke

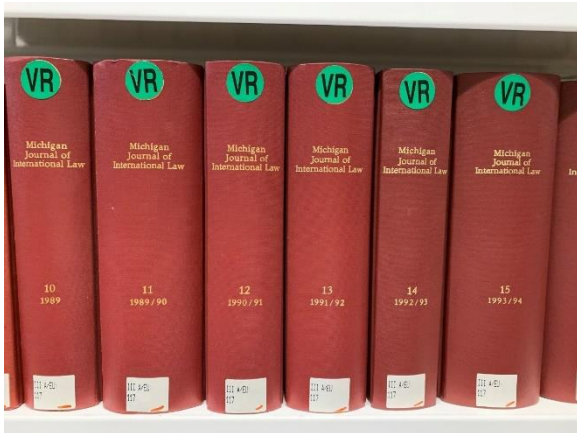
Table 2. Opinions on questions of French law drafted by researchers of the institute

How then can we explain this lack of interest in the French language at the Heidelberg Institute, or even in francophone law today? The reason for this development is undoubtedly multifactorial. The most logical explanation would be the decline in the language skills of the Institute's researchers. As a matter of fact, many staff members of the Institute were francophone (or even francophile) in its founding period and after the Second World War. This applied to the researchers, but also to their multilingual secretaries. So, where do we stand today? The hypothesis of a decline in language skills does not hold water: a linguistic inventory of the Institute's scientific staff shows that the vast majority of researchers employed by the Institute have completed a period of their studies in France (or the francophone part of Switzerland or Canada), and sometimes even hold a degree from a French-speaking university. They are therefore perfectly qualified to follow legal developments in the French-speaking world. The decline in the use of French at the Institute can thus hardly be explained by a lack of language skills. Moreover, the current directors – Anne Peters and Armin von Bogdandy – also have an excellent command of French, which they regularly use at French-speaking events.





The Anglophone hegemony



The French language is still used in the library's classification system, introduced in 1924. The country codes for journals are still French: American journals are listed under EU (États Unis).

Another hypothesis might be that the moderate use of French and the limited study of francophone law at the Institute simply reflect the broader political and legal context and, therefore, the declining importance of French in international legal practice. French plays a prominent role in international law because, to put it simply, France was a major (colonial) power at the time when the current international legal system took shape. As a result, until the 20th century, international diplomacy used to be conducted in French, and many international legal instruments were drafted in French. This is evidenced by the collections of treaties and

jurisprudence published or edited by staff members of the Institute. Among these are the *Nouveau recueil général de traités et autres actes relatifs aux rapports de droit international* (Recueil Martens) (published by the Institute between 1925 and 1969) and the *Fontes iuris gentium* (published by the Institute between 1931 and 1990), which switched entirely into English in 1986 (under the name *World Court Digest*).

Although France retains a permanent seat on the United Nations Security Council and remains a pillar of the European project, it has for quite some time now ceased to be a great power. This has had an undeniable impact on the use of the French language, which is in decline, not to say collapse, in favour of English, which has become the *lingua franca* of international relations since the Second World War. For instance, the Treaty of Aachen – signed by France and Germany in 2019 – was first written and negotiated in English by diplomats of both countries, and then translated into French and German. The world of diplomacy is changing, and so are language habits and preferences.

This brings us to a third factor that may help to explain the decline of French at the MPIL in Heidelberg: the Anglophonisation of the research world, including in the field of law. For internationalists, Europeanists or comparative public/ constitutional lawyers, English is now the first language of interaction and, above all, the prevailing, if not predominant, language of publication. Just take a look at the list of the most cited academic journals in the field of international law, all of which are published in English. Despite the fact that, thanks to digital tools, we can now much more easily consult sources in several languages and translate the writings of our colleagues, we have noticed over the last twenty years that academics are mainly and increasingly referring to English-language sources. This applies to international law, as Allain Pellet had already deplored in 1988 in a letter to the editors of the *American Journal of*





International Law (AJIL), as well as to European law as Daniel Thym's insightful analysis of 2016 shows. This linguistic bias towards English is, moreover, particularly pronounced among American authors who, in the words of Christian Tomuschat, "remain deliberately within the cage of the Anglophone literature without ever looking beyond their own home-grown source." Although tools such as DeepL or ChatGPT allow us to approach foreign-language sources more easily, their use can complement basic linguistic expertise, but it cannot replace it. Moreover, digital tools often favour English because of the algorithms they employ – but that's yet another debate.

French has thus been replaced not only as the language of international diplomacy and therefore of the practice of international law, but also as a research language in international (and European) law. A particularly radical and significant change in this respect was the disappearance of French as the language of publication of the *European Journal of International Law* in 1998, when the journal came under the management of the British publisher Oxford University Press, only ten years after its launch as a bilingual (French/ English) journal by polyglot academics.

In any case, the situation at the Heidelberg Institute is not an exception, but part of a general linguistic trend. In other words, we are witnessing the decline of French as a result of the globalisation and diversification of the research world. Following this logic, the question is whether the last bastions of French – in particular the Institut de droit international – will be able to impose its francophone language policy over time, especially given that some discussions at said Institut are already held in English, as Anne Peters, a member of this institution since 2021, told me.

Aggravating factors: academic and political barriers

The peculiarities of the French academic landscape in (international) law, characterised by a [pronounced formalism and very specific methods](#) (just to mention the "*deux parties / deux sous-parties*" outline), do not necessarily make legal research emanating from the French tradition easily accessible. Yet, as [Andrea Hamann has shown with great analytical finesse](#), the French tradition of international law (and to some extent European law) is pragmatic. This pragmatism is inspiring, even refreshing for some, and could prove advantageous in our time, marked by a growing sense of realpolitik and the need to find solutions to the many emerging problems.



German and French researchers side by side. Karl-Josef Partsch (left) and Jean-Maurice Verdier (right) in 1978 at the colloquium "Koalitionsfreiheit des Arbeitnehmers" (Foto: MPIL)





Finally, we can also observe that the decline of French at the Heidelberg Institute follows a broader political trend. The Franco-German relationship is going through a (prolonged) difficult period. As reported by several [French media](#), Vice-Chancellor Robert Habeck remarked in September 2023 at the annual conference of German ambassadors: “We [the Germans and the French] do not agree on anything.” Except, it seems, on a certain linguistic distance. The German government has decided to close several Goethe Institutes in France, despite the provisions of the 2019 [Treaty of Aachen](#), which stipulates that the two countries are committed to maintaining and strengthening the learning of each other’s languages. Despite the impressive number of students who have completed a binational academic programme offered by the French-German University (UFA) – [in 2022 alone, more than 1,400 students followed Franco-German law courses at the UFA](#) – thanks to exchange programmes such as Erasmus or cotutelle agreements, there seems to be a (linguistic) regression (at a high political level), which is not without consequences for the research world.

Advocating French in a multilingual (academic) context

In conclusion, this contribution is by no means intended to be nostalgic, i.e. to urge a return to the days when French was the language of international diplomacy and international law, or to advocate an [outdated Franco-English duopoly in international relations](#). With these few lines, I would like to draw the readers’ attention to the need for linguistic diversity in academic work, which also allows for a certain intellectual and conceptual diversity. The predominance of English in the research and practice of international and European law certainly has its advantages, making (a priori) exchange and access to knowledge easier. But it also has its downsides: it gives the illusion of a world that is much more unified and inclusive than it actually is.

Indeed, as Odile Ammann explains so delicately, the dominance of English as the language of academia is accompanied by significant [analytical, conceptual and other biases](#). If we want to avoid an impoverishment of the (academic) legal debate and, on the other hand, maintain a certain richness in legal thought and practice, it is important to cultivate linguistic diversity – at both [the individual and the institutional level](#). It seems appropriate that French should be part of this diversity, given its historical and contemporary importance – it is the fifth most spoken language in the world after English, Mandarin, Hindi and Spanish. For me in any case, my homeland is multilingualism, and French is undoubtedly an important part of that.

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