

## EDITORIAL

# Editorial Comments: What Should Be the Language of (Hungarian) Legal Scholarship?

## Foreword to Vol. 11 (2023) of the Hungarian Yearbook of International Law and European Law\*

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When I started my doctoral studies in 2004, the main place of research was the library, where we browsed mainly Hungarian-language textbooks (although the CEU library already had a considerable stock of social sciences literature in foreign languages as well). In 2006 I spent a year in the fairytale town of Heidelberg, at the Max Planck Institute for Comparative Public Law and International Law, where, in addition to the Institute's huge basement library, an electronic database of German and foreign-language journals was already accessible to legal scholars. And it was in the summer of 2007, just as I was leaving the Institute, that the imposing wooden filing cabinets that ran around the first floor corridor were dismantled, since they were no longer used or needed. Thanks to technological advances, access to science has become much faster and has almost infinite reach: instead of making our way to the library, perusing or ordering physical books, we now have access to a much wider range of literature, including in foreign languages, at the click of a mouse from the comfort of our home.<sup>1</sup> This development has given a new impetus to the 'internationalization' of (legal) scholarship and the emergence of English as the *lingua franca* of academia.

During my years as a researcher at the Max Planck Institute, I not only witnessed this technological advance greatly transforming our research habits, but also another, closely related issue that the Institute was just starting to grapple with. Our Institute Director initiated a discussion on the question: what should be the Institute's language strategy? It is worth noting that Max Planck Institutes are

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1 In respect of the humanities, Máté Botos writes: "Owing to the Internet, scientific results previously published only in print, perhaps in limited numbers or in national languages, are now available in the humanities. This means that, on the one hand, the claim that major scientific discoveries may remain in isolated cultures and do not reach the mainstream of the scientific world (the Bolyai syndrome), and on the other hand, that many research projects that were previously carried out in parallel because there was no information about where and by whom the problem was still being addressed become untenable. This gives a new impetus to research, as is inevitably the case with the integration of artificially separated departments." Máté Botos, 'A bölcsészettudományok jövője', *Századvég*, Vol. 77, Issue 3, 2015, p. 101.

funded chiefly by the German state, and often commissioned by the state to provide expert advice. Historically, German directors, with German staff reported on the results of German legal scholarship in German language, and supervised German-language dissertations of German doctoral students. In the renowned Heidelberg Institute, a turning point came when Director Armin von Bogdandy added foreign staff to his team, undertook to supervise dissertations written in foreign languages and introduced the bi-weekly Institute meetings held in English. In other words, at the turn of the millennium, the Institute opened up to foreign researchers and entered the international scientific discourse with conferences and publications in foreign languages. It was in this context that the question arose as to which language the Institute's research and scientific exchange should be conducted. The Director outlined several options (and here I can only rely on my memory when recalling them). (i) Research results are published in *German* – a solution supported by the fact that much of the Institute's research is funded by the German state. The German legal language should be cultivated and developed, and the results of German legal scholarship should be made available to German-speaking researchers and academics. (ii) Research results are published in *English* – the results of German legal scholarship are best communicated to the international scientific community in the *lingua franca* of science, *i.e.* in English. This enables the Institute to become involved in, and strengthen its position on the international academic plane, to participate in the current legal discourse and to present the German legal position. (iii) Research results are published in *both German and English* – the cultivation and development of the German legal language, the service to the German academic community and the channeling of German legal research results into the international academic community in a foreign language are legitimate goals, all of which serve the interests of the German state.

The debate on this subject was not concluded before I left the Institute, so in preparation for this paper I asked Professor Armin von Bogdandy – who is still the director of the Institute – whether the discussion had led to the development of an institutional language strategy. It is telling that the Institute has not yet developed a clear strategy for its language of research. According to von Bogdandy, the Institute publishes mainly in English and German, while there is an increasing demand among young researchers to publish in English language in order to establish an “international career and international reputation”: “for them, German is too narrow a language arena”. Director von Bogdandy added: “of course, we also receive a lot of public funds to support German jurisprudence” with German-language publications.

Another German example illustrating the dilemma surrounding the language of research and scientific communication is the case of the *Deutsche Universität für Verwaltungswissenschaften* in Speyer. While the Max Planck Institute for Comparative Public Law and International Law inevitably works with foreign-language resources and cannot remain outside the international academic discourse, if only because of its focus on comparative law, international law and EU law, the University of Speyer was specifically set up to support the German public administration. The University is an exceptional institution, as it offers exclusively

postgraduate education for German civil servants and all German *Länder* contribute to its funding. In this context, the question of how much, if at all, an institution established to study and support national public administration should participate in the international academic discourse is particularly acute. Between 2016 and 2019, I participated in an externally funded research project at the *Deutsches Forschungsinstitut für öffentliche Verwaltung* (German Research Institute for Public Administration) at the University, where some foreign researchers were specifically recruited to publish their academic findings in English-language publications on EU administrative law-related topics. In the course of the project, foreign researchers published papers in English and German researchers published papers in German, so that the results of the Research Institute's research were published in both the international and the German academic context. With the conclusion of the project, the Institute largely turned its attention back to researching the German public administration, producing mainly German publications.

The two examples from Germany also show that, in light of the internationalization of academic life, easier access to resources and publishing platforms, all actors in the academic world must reflect on their language strategy to be able to fulfil their function, remain relevant and, where necessary, be included in the international academic discourse.

The first example concerned one of Germany's leading research institutes and the second a German university, none of which had a written language strategy. It is clear from the two examples that these institutions have different functions and very different profiles: the Max Planck Institutes are research institutions, while the university primarily has an educational function. It is important to note that a research institute specializing in comparative law and international law cannot, by its very nature, remain isolated from the international academic discourse, whereas this is not necessarily the case with the German university specializing in administrative law. Indeed, when considering the language of legal scholarship, the question arises as to 'who is served by the science produced': the funding body, the legal professions, the citizens seeking justice, or those who reflect on the results of research as legal scholars themselves? In the first case, the focus is on research, publication and presentation of findings in the national language, but in the latter two cases, the use of the *lingua franca* of science also comes into play.<sup>2</sup>

Turning now to issue of Hungarian universities and research institutes, the question can be posed: what should be the language of Hungarian legal scholarship? What are the objectives underlying a possible institutional language strategy and who should determine this? In an attempt to answer these questions, I shall yet again distinguish between the two broad categories of research institutions and universities in assessing their respective discernible language strategies.

To take an example of a research institution, I sought to unpack the language strategy of the Institute for Legal Studies (*Jogtudományi Intézet, JTI*) which forms part of the Eötvös Loránd Research Network (*Eötvös Loránd Kutatási Hálózat, ELKH*

2 I am grateful to Sándor Szemesi for the idea of the preliminary questions on the language of jurisprudence.

– from 1 September 2023: Hungarian Research Network, HUN-REN).<sup>3</sup> The Founding Act, the Organizational and Operational Rules of the ELKH and Act LXXVI of 2014 on Scientific Research, Development and Innovation, which regulates the legal status of the ELKH, are equally silent on the language in which the research centers of the ELKH conduct research and publish their respective scientific results. However, according to the ELKH's website, “the ELKH is committed to strengthening its presence on the international scene”, encouraging cross-border research cooperation and participation in EU research programs, with the aim of promoting international networking between ELKH research centers and researchers.<sup>4</sup> The Institute for Legal Studies (JTI), which forms part of the ELKH has as one of its objectives and tasks

“to engage in and contribute to the international legal discourse in certain areas. It will establish effective cooperation with partner institutions abroad and directly involve foreign researchers in its activities.”<sup>5</sup>

This objective is implemented in the JTI's *scientific and professional concept*, which expressly refers to the Institute's language strategy: “Since international publication as an output is a priority in the Institute's strategy, it must be ensured that the Institute conducts internationally relevant research.” Therefore, the JTI is seen as an initiator and participant in international scientific projects, maintaining a significant network of international scholarly contacts. The JTI's performance evaluation and promotion system also includes international publication as an evaluation criterion. However, according to the concept

“the current emphasis on international publishing [...] must in no way result in the marginalization of Hungarian-language activities, especially in view of the fact that the Institute also performs a public task as part of the Hungarian Academy of Sciences.<sup>6</sup> Nor can it be overlooked that jurisprudence – despite all

3 JTI, formerly a research institute of the Hungarian Academy of Sciences (HAS), is no longer governed by Act XL of 1994 on the Hungarian Academy of Sciences (HAS Act). The HAS Act, which governs the HAS, represents a clear language strategy stating in its preamble that the HAS was “established by the nation for the cultivation of the Hungarian language and for the service of science”. It mentions among the public tasks of the HAS the promotion of the Hungarian language and the cultivation of science in Hungarian. According to Article 3(4) of the Statute of the HAS, “the Academy shall support research into the history, vocabulary and grammar of the Hungarian language, the publication of the results of such research and the cultivation of the Hungarian scientific language”. The law does not restrict the promotion of the development of the Hungarian language and the cultivation of science in Hungarian to the Department of Linguistics and Literature of the Academy, but makes it the task of all departments. The “cultivation of science in Hungarian” reflects a clear language strategy, since the HAS Act does not provide for the cultivation of science in other languages, and as regards participation in international scientific life, it only states that the public body “shall conclude agreements and maintain relations with domestic, foreign and international scientific institutions and organizations”. HAS Act, Section 3(1)(f).

4 See at <https://elkh.org/az-elkh-strategiai-celrendszer>.

5 Objectives and tasks of the Institute of Law, see at <https://jog.tk.hu/intezet-feladatai>.

6 The Concept had not been updated to reflect the JTI's severance from the HAS which took place three years ago.

its international aspects – has remained a national jurisprudence in the 21st century. Scientific results that can be successfully presented on the international stage must therefore be made available in Hungarian, since only in this way can they reach the majority of the Hungarian professional public and serve the development of Hungarian science. It is important that the various professions involved in the law (lawyers, judges, prosecutors, civil servants, *etc.*) should also have access to these results. Some of the research in the field of legal scholarship is addressed not only to the professional public, but also to Hungarian society as a whole, with a view to promoting scientific knowledge and raising awareness of the law, which is directly linked to the practice of law and thus has an impact on society as a whole.<sup>7</sup>

The scientific and professional concept of the JTI clearly reflects a language strategy that serves the needs of the Hungarian scientific community and the legal professions, as well as the Hungarian public at large, while at the same time facilitating the Institute's involvement in the international scientific discourse and encouraging the dissemination of the results of Hungarian legal scholarship worldwide.

To give an example of a language strategy employed by a university, I examined the Doctoral Regulations of Pázmány Péter Catholic University (PPCU) in detail. As an institution of higher education, the university presents the national law and scientific results to its students in a language adapted to the language of legislation and legal practice. In addition, research is also carried out in these institutions, since according to Section 26(1) of the Act on National Higher Education (NHE Act),<sup>8</sup> a lecturer shall carry out academic research for at least twenty percent of their working time. In the context of legal research, language use is mentioned in the Doctoral Regulations of the PPCU under Section 18(1):

“The thesis is a summary of the doctoral student's objectives, new scientific results (description of their professional work, knowledge of the literature, research/creative methods), which may be written in Hungarian or in a language approved by the Doctoral Council of the respective discipline.”<sup>9</sup>

At the same time, according to Resolution No. 2021/47 of the Doctoral and Habilitation Council for Law and Political Sciences, the “publication requirements for doctoral degrees” stipulate that before the doctoral thesis is submitted for public discussion, the doctoral student must have at least “six scientific publications in Hungarian and one in a foreign language published or accepted for publication”.<sup>10</sup>

7 Concept for the Operation of the Institute of Law of the Centre for Social Sciences, at <https://jog.tk.hu/szakmai-koncepcio>.

8 Act CCIV of 2011 on National Higher Education.

9 See (in Hungarian) at <https://jak.ppke.hu/jog-es-allamtudomanyi-doktori-iskola/szabalyzatok/egyetemi-doktori-szabalyzat>.

10 DHT Decision No 2021/47, at <https://jak.ppke.hu/jog-es-allamtudomanyi-doktori-iskola/szabalyzatok/mukodesi-szabalyzat>.

Not only is Hungarian the main language of doctoral research, but the habilitation rules also stipulate that

“the habilitation procedure shall be conducted in Hungarian – exceptionally in a foreign language as decided by the Faculty Habilitation Committee. In the course of the procedure, the candidate is obliged to give a scientific lecture on the subject they have researched, a lecture on the subject for the students, and an (open) lecture in a foreign language before the Faculty Habilitation Committee on topics proposed by them and accepted by the Committee.”<sup>11</sup>

Hungarian native speakers may give their public lectures in the Hungarian language only; non-Hungarian native speakers may be given permission by the Faculty Habilitation Committee to give lectures in other languages.<sup>12</sup> Since the University has already aligned the conditions for habilitation with those for the appointment of university professors as defined by the Hungarian Accreditation Committee (MAB), the Habilitation Regulations stipulate that the habilitation application must include, among other things, both a “list of foreign publications” and a “list of foreign lectures”. The term ‘foreign’ is difficult to interpret, but in this context it is most likely to refer to publications, or lectures held in foreign languages. In other words, at the point of habilitation, academic career progression requires a number of ‘foreign’ publications and presentations, without however concretely specifying the number or proportion of these.

Among other things, these criteria are supported by the scientific metrics applied by the Hungarian Academy of Sciences (HAS), which rewards with a higher score those studies that are published in Q1-Q4 (typically ‘foreign’) journals and the so-called A-B (in other words, higher ranked) journals of the international journal register of the HAS, as well as other studies, monographs and other publications published abroad or in Hungary in a foreign language, than those similar works that are published in Hungarian.

In the context of university language strategies, it is worth mentioning the criteria for acquiring full professorship in the social sciences, which, as I have indicated above, have a significant impact on the language strategy of universities. The Hungarian Accreditation Committee’s evaluation form for the 2023 applications for full professorship foresees a “minimum requirement” of at least 80 hours of foreign language teaching and a “demonstration of internationally recognized outstanding academic performance”.<sup>13</sup> The minimum requirement includes

“at least two Q1 or Q2 international publications in a foreign language in a field relevant to the field of the Applicant, or in category A or B of the

11 Habilitation Regulations of Pázmány Péter Catholic University, at <https://jak.ppke.hu/uploads/articles/905980/file/Egyetem%20Habilit%C3%A1ci%C3%B3s%20Szab%C3%A1lyzat.pdf>, Section 1(6).

12 Id. Sections 8(8) and 8(9).

13 Hungarian Accreditation Committee: Documents for applying for full university professorship (from 15 January 2023), Social Sciences, at [www.mab.hu/wp-content/uploads/11.-UniProf\\_AssessmentSheet\\_SocialScinimusMilitary\\_15-01-2023.pdf](http://www.mab.hu/wp-content/uploads/11.-UniProf_AssessmentSheet_SocialScinimusMilitary_15-01-2023.pdf).



international journals index of the Hungarian Academy of Sciences' Scientific Section IX (Economics and Law), or at least one monograph published in a foreign language by a renowned international publisher.”<sup>14</sup>

Although the additional criteria do not directly and expressly require research and publication in foreign languages, it is difficult to imagine fulfilling the minimum requirement of at least 30 “foreign language references” to the applicant’s publications if these are solely published in Hungarian language. Finally, ‘international recognition’ includes international professional awards, recognition, membership of an editorial board of an international scientific journal, organization of a prestigious international conference, *etc.*, scientific lectures upon ‘international invitation’. The latter conditions cannot be fulfilled exclusively in Hungarian. The MAB’s criteria for full professorship thus require, that the candidate have a significant academic record of teaching, publishing and presenting scientific findings in a foreign language in addition to teaching and conducting research in Hungarian. The MAB’s criteria for full professorship are intended to measure the scientific achievements and international recognition of the applicant, which the applicant can largely demonstrate on the basis of publications, lectures and citations in foreign languages. Thus, although the criteria announced by the MAB do not in themselves constitute a comprehensive language strategy, they are of decisive importance for the express or implicit language strategy of universities. Indeed, universities adapt the criteria for awarding habilitations, associate professorships and adjunct professorships to the criteria for full professorship set and updated almost annually by the MAB.

At the time of my research, it is not yet clear how universities will react to the category of “performance-related quality support” introduced in higher education funding, which takes into account, among other things, the number of Q1-Q2 publications published by researchers at their institutions and the number of citations received for their WoS/Scopus publications.<sup>15</sup> Since some public funds are now distributed according to performance thus measured, there is a clear institutional interest for universities to increase the number of publications of their researchers in indexed journals, which can be met by publishing in leading foreign journals in foreign languages. However, since it is not yet clear what measures universities will take to encourage researchers to improve these indicators, the pull of performance-related quality support is still lagging behind the impact exerted by the criteria for full professorship determined by MAB.

The language strategy of the JTI and the PPCU also raises the question: who is legal scholarship intended to serve? Is it the funding body, the legal professions or academia? As a research institute, the profile of the JTI would suggest that its work is primarily addressed to the academic community, who reflect on the academic achievements of the Institute in the context of academic discourse, which implies ‘internationalization’. However, the JTI’s concept stresses that it’s work is not

14 Id. p. 4.

15 Péter Sasvári & Zsuzsanna Fejes, ‘Publikációs lehetőségek Scopus által indexált folyóiratokba állam- és jogtudomány esetén’, *Tudományos és Műszaki Tájékoztatás*, Vol. 70, Issue 1, 2023, pp. 38-58.

solely addressed to the scientific community, but also to the legal professions and to society as a whole, with the purpose of disseminating scientific knowledge. Meanwhile, universities are first and foremost educational institutions, teaching national law and legal practice, but also publishing and lecturing in foreign languages in the framework of their research activities.

So what should be the language of Hungarian legal scholarship? According to the express language strategy of the JTI and the language strategy of the PPCU, which can be deduced from the system of career progression and science metrics, both pillars of Hungarian legal science, *i.e.* research institutions and universities pursue a ‘mixed’ language strategy, through which they aim to develop Hungarian legal scholarship and the related scientific terminology on the one hand, and on the other hand they also seek to participate in the international scientific discourse through publications, lectures and research collaborations in foreign languages. However, while the JTI’s scientific and professional concept of ‘international publication’ is a general expectation towards its staff, this is becoming a stronger requirement in the career progression of PPCU teaching staff. Even though none of the language strategies under examination specify the proportions of Hungarian or foreign language publications and presentations to be achieved at institutional or individual researcher level, the full professorship criteria established by the MAB exert a strong pull at least at an individual level, guiding researchers. A further individual pull is that both the JTI and the PPCU take into account and reward publications and lectures in foreign languages when evaluating the performance of researchers.

I conclude this editorial comments with questions rather than conclusions: is it desirable that the MAB criteria for full professorship exert the strongest pull on university language strategies? Should the language strategy of research institutes and universities be fixed in writing? What explicit objectives should these language strategies serve, beyond institutional career progression and acquiring performance-related quality support – for example: cultivating and developing the Hungarian (scientific) legal language or disseminating legal knowledge to the Hungarian public? Should language quotas be set at institutional and/or researcher level for publications and presentations in Hungarian and foreign languages, and if so, should these be differentiated according to the profile of the institution or researcher?

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This year’s thematic chapter centers around the past, present, and future of European citizenship. 30 years after the introduction of EU citizenship, our authors seek to evaluate the impact, current and possible future role of EU citizenship within the EU. *Martijn van den Brink* tries to clarify in what respects the law on the right of Union citizens to claim social assistance has changed over the course of the past three decades and to develop a framework that allows to evaluate the relevant CJEU judgments. *Laura Gyeney* argues that early in its case law on the free movement of EU citizens, the CJEU took a very expansive stance in its rulings on social benefits for inactive EU citizens, which case law took a restrictive turn following



the Eastern enlargement and, even more so, following the 2008 recession, in response to Member States expectations. *Éva Lukács Gellérné* examines the specific issue of cross-border patient movements, through the example of the *WO* case. *Ágoston Mohay* analyses the CJEU's recent case law – focusing especially on the novelties of the *JY* judgment – regarding the loss and acquisition of EU citizenship, including the relevance of free movement and the concept of gradual integration. Finally, *Balázs Tárnok* aims to review the practice of the European Citizens' Initiative in the first ten years of its operation from a theoretical approach, considering its role in the system of EU law and the development thereof throughout its implementation.

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On behalf of the entire Editorial Team, I wish you a good read and hope you enjoy the current Volume of our Yearbook. I also hope to welcome you among the authors of Vol. 12 (2024) of the Hungarian Yearbook of International Law and European Law. The thematic chapter of Vol. 12 (2024) will be dedicated to the role of Hungary within the EU, with special regard to the forthcoming Hungarian EU Presidency. Please feel free to submit your contribution (to be published in any of our chapters) with us no later than 15 April 2024, in accordance with our Style Guide and Call for papers (available at our website, [www.hungarianyearbook.com](http://www.hungarianyearbook.com)).