

**MAX PLANCK INSTITUTE**  
FOR COMPARATIVE PUBLIC LAW  
AND INTERNATIONAL LAW



**2021**  
**2023**

**STATUS REPORT**





## **DIRECTORS**

Armin von Bogdandy  
Anne Peters



# CONTENTS

## **1** INTRODUCTION 04

<b>2</b>	<b>RESEARCH</b>	<b>08</b>
2.1	DEPARTMENT ARMIN VON BOGDANDY	10
2.2	DEPARTMENT ANNE PETERS	26
2.3	MPIL RESEARCH GROUPS	44
	2.3.1. EUROPEAN SECURITY REVISITED (ENSURE)	44
	2.3.2. HEISENBERG PROJECT: GROTIUS CENSUS BIBLIOGRAPHY	52
	2.3.3. THE MULTIPLICATION OF AUTHORITIES IN GLOBAL GOVERNANCE INSTITUTIONS (MAGGI)	58
	2.3.4. SHADES OF ILLEGALITY IN INTERNATIONAL PEACE AND SECURITY LAW (SHADES)	66
	2.3.5. TOWARDS A PROCEDURALISATION OF INTERNATIONAL LAW?	72
	2.3.6. TRANSNATIONAL SOLIDARITY CONFLICTS (TSC)	76
2.4	PERMANENT RESEARCH STAFF	82
2.5	PERSONAL ASSISTANTS	85

# 3 ORGANISATION 86

3.1 — ADMINISTRATION 88

3.2 — LIBRARY 95

3.3 — DIVERSITY AND EQUAL OPPORTUNITIES 101

3.4 — SUSTAINABILITY 102

3.5 — CAREER DEVELOPMENT 103

# 4 COOPERATIONS AND NETWORKS 106

# 5 KNOWLEDGE TRANSFER 118

# 6 BOARDS 126



# INTRODUCTION

This report provides information on the activities, developments, and research achievements of the Max Planck Institute for Comparative Public Law and International Law during the three-year period from 2021 to 2023. We give an account of our output and inform about planned activities and new initiatives.

**IN TIMES** of fundamental geopolitical shifts, accompanied by a crisis of liberal democracy and the rule of law, our research addresses the legal aspects of multiple transnational challenges, ranging from the pandemic, climate change, migration, armed conflicts in Ukraine, Gaza, and elsewhere, to the rise of authoritarian movements in Europe and many parts of the world. Scholars and research institutions are confronted with quickly changing modes of communication and the evolving media, with a fragmentation of discursive spaces, and skepticism towards science in general. In this constellation, our Institute seeks to provide sound knowledge, to contribute to political and societal debates, and to prepare the ground for informed political, economic, and technical decision-making while maintaining scholarly integrity and autonomy.

In 2024, the Max Planck Institute for Comparative Public Law and International Law (MPIL) looks back on 100 years of a rich tradition – and on 75 years in Heidelberg. Founded in Berlin in 1924, the Institute was re-established on the banks of the Neckar in 1949. The centenary is an occasion to remember and reflect on the development of the Institute and its contribution to scholarship and legal practice.

At the occasion of our anniversary, our **history project MPIL100**, led by Philipp Glahé and Alexandra Kemmerer, aims to realise an inclusive, dynamic, and networked form of multi-perspective historiography. Scholars from various disciplines and active and former members of the Institute have participated in our seminar series "100 Years of Public Law: International, Transnational, Comparative" and have published on our **blog MPIL100**. They reflect on current issues in our fields of research in a historical context and engage with the protagonists who have worked at the Institute – including those who previously went unnoticed, and those who have shaped the Institute as non-academic staff.

From a historical distance, we now take a new look at the Institute's research achievements. This concerns the research topics over the last hundred years, beginning with the dispute over the Treaty of Versailles and extending to the League of Nations, the law of war in the Second World War, European integration in the 1950s, the law of the sea, and German reunification. Whether comparative constitutional law, international and European law, human, animal, and environmental rights – numerous developments are traced in their origins and consequences. This includes an examination of the Institute and its staff vis-à-vis the "Third Reich" and the ideology of National Socialism or colonialism. The blog also offers an opportunity to comment on the Institute's current academic work.

During the reporting period of 2021 to 2023, numerous research and qualification projects have been initiated, carried out, and completed. This report provides concise information about our research questions, the scholars who ask them, the infrastructure that makes our work possible and, last but not least, our output in the form of publications, academic conferences and workshops, lectures, blog-posts, and our contact with the wider public in all types of media. The structure of the report is slightly different than in previous years, with a stronger focus on the broad lines of our research agendas, on individual career development, and on the implementation of institutional principles such as diversity, sustainability, equal opportunities, and compatibility of family and career. The contents of the report are linked to the Institute's digital space including its website, thus providing an entry point into the Institute's research.

## THE INSTITUTE AS A LEARNING ORGANISATION

In response to the report of the advisory board 2021, we maintained and fostered the pluralism of our scholarship which is diverse in terms of themes, theoretical bases, and methods. We also upheld and strengthened our ties to legal practice, built our national and international networks, and communicated with the broader public.

We paid particular attention to staff researchers without a German degree. Given the closed character of the German academic job market, these scholars need to find suitable positions in other countries. Support comprises intense personal counselling, space for their networking activities and teaching abroad, and our active contribution to the Mark Planck Law network which proactively addresses the special professional needs of this group.

We have sought to broaden the geographic and cultural diversity of our visiting scholars through pro-active invitations, a broad call, and attention in the selection process.

We stepped up our activities in the field of gender equality, for example by allocating a regular slot for gender-related presentations in the Monday meeting. We have gained routine in online and hybrid formats for our academic events, in order to reach broader audiences, especially in the global south, and to reduce the carbon footprint, as specifically appreciated by the Fachbeirat.

We have considerably strengthened the governance of the ZaöRV which led to the journal's indexation in SCOPUS and are aspiring for the web of science. We have encouraged contributions by non-European authors and have devoted considerable resources to making such manuscripts publishable. We have diversified the journal's advisory board, have intensified the double blind peer review process, and have pursued agenda setting through focal sections and special issues. Finally, we further refined our communication strategy and intensified social media use.

Over the past three years, our Berlin office has continued to facilitate confidential dialogue with academics, practitioners, and journalists in the capital.

The library remains our key research tool. It currently holds 720,000 volumes and offers access to more than 32,400 journals and periodicals. In the areas of public international law, European Union law and comparative public law, the library is the largest in Europe and one of the most comprehensive in the world. The publications team supports the editing processes of inhouse publications including the Heidelberg Journal and puts together the newsletter.

The IT department has faced extreme challenges, not the least to the steeply growing demand for sophisticated online and hybrid communication formats since the pandemic. Under a new leadership, this service department has successfully equipped researchers with mobile notebooks that give them access to all the resources they need, both inside and outside the institute.

The administration has, under a new head of service, expanded the use of digital tools (e. g., for job and scholarship applications and facility management). It tried to simplify processes and has implemented sustainability measures. All its units, including housekeeping, the event team, the international officer, and the reception desk, proved their commitment to respond swiftly and flexibly to the needs of the Institute's academic community.

The directors' personal assistants have once again shown that they are in many ways the beating heart of the Institute. They have not only "managed" the directors, but are familiar with all units and processes, and support staff and visiting scholars in (almost) all aspects of life.

We would like to thank the entire staff for their contributions to this report, in particular Áine Fellenz and Alexandra Kemmerer for their drafting and coordination work.

**ANNE PETERS**  
MANAGING DIRECTOR

Max-Planck-  
Institut  
für ausländisches  
öf. Recht u. Völker-  
recht  
Heidelberg

INSTITUT  
FÜR AUSLÄND. ÖFFENTL.  
RECHT U. VÖLKERRECHT  
BERLIN

18. April 1956

Kaiser Wilhelm-  
Institut  
für ausländ. öffentl. Recht  
u. Völkerrecht  
BERLIN

Max-Planck-  
Institut  
für öffentl. Recht  
u. Völkerrecht  
BERLIN

Institut für  
Freie  
Bibliothek  
Völkerrecht

21

23





**RESEARCH**



## 2.1

---

<b>DEPARTMENT ARMIN VON BOGDANDY</b>	<b>10</b>
--	-----------

## 2.2

---

<b>DEPARTMENT ANNE PETERS</b>	<b>26</b>
-------------------------------	-----------

## 2.3

---

<b>MPIL RESEARCH GROUPS</b>	<b>44</b>
-----------------------------	-----------

2.3.1. EUROPEAN SECURITY REVISITED (ENSURE)	44
--	----

2.3.2. HEISENBERG PROJECT: GROTIUS CENSUS BIBLIOGRAPHY	52
--	----

2.3.3. THE MULTIPLICATION OF AUTHORITIES IN GLOBAL GOVERNANCE INSTITUTIONS (MAGGI)	58
---	----

2.3.4. SHADES OF ILLEGALITY IN INTERNATIONAL PEACE AND SECURITY LAW (SHADES)	66
--	----

2.3.5. TOWARDS A PROCEDURALISATION OF INTERNATIONAL LAW?	72
---	----

2.3.6. TRANSNATIONAL SOLIDARITY CONFLICTS (TSC)	76
--	----

## 2.4

---

<b>PERMANENT RESEARCH STAFF</b>	<b>82</b>
---------------------------------	-----------

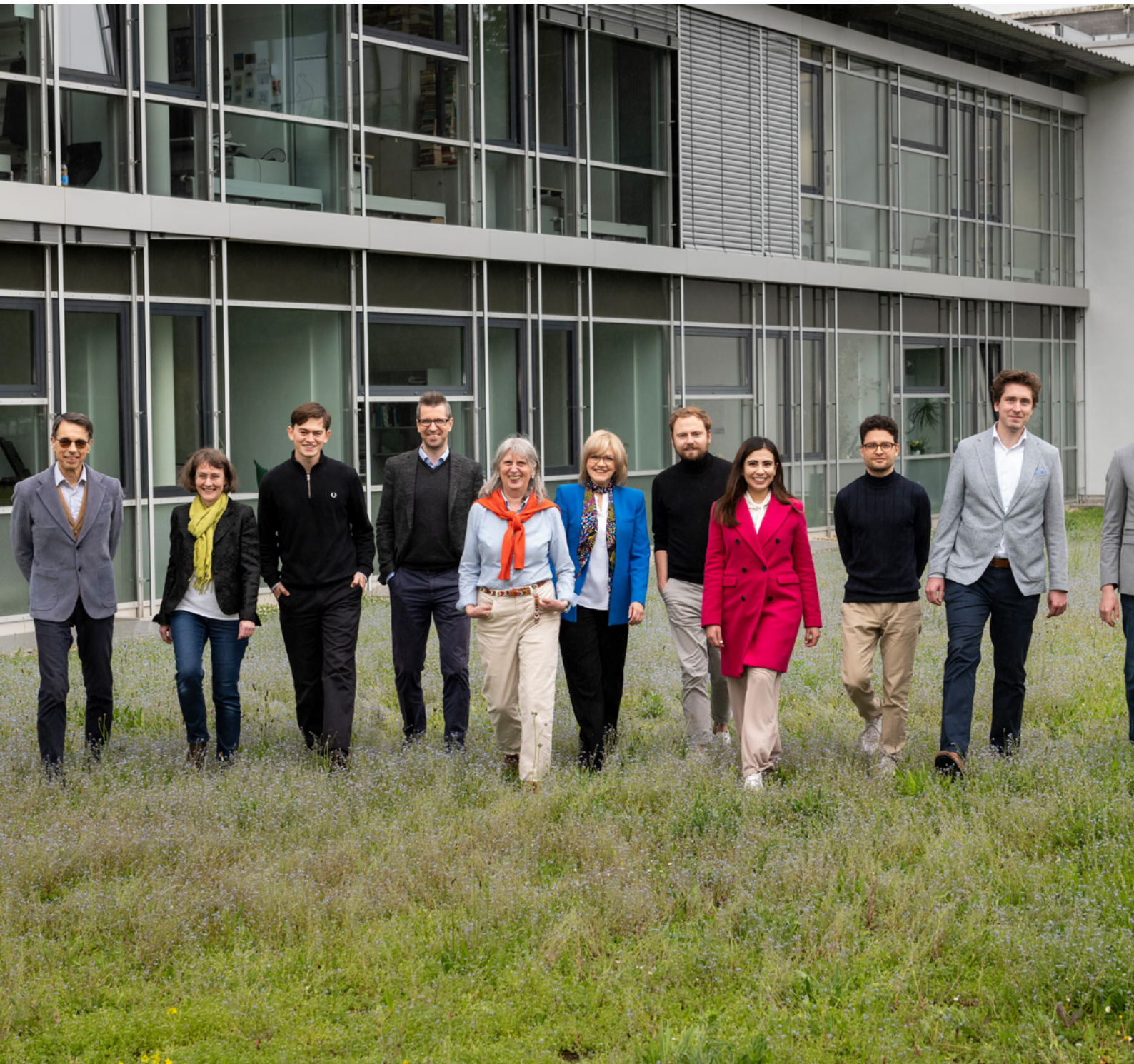
## 2.5

---

<b>PERSONAL ASSISTANTS</b>	<b>85</b>
----------------------------	-----------



# DEPARTMENT ARMIN VON BOGDANDY



## RESEARCH PROFILE

In the years 2021 to 2023, the department's work has revolved around three concepts: European society, transformative constitutionalism through the project **ius Constitutionale Commune en América Latina** (ICCAL), and **international public authority**. Substance wise, we have examined the paths of European integration and Latin American constitutionalism, ways to defend and restore constitutional democracy, as well as the global governance of health, climate change, investment, and monetary policy. Other areas of research include the ICJ's role in geopolitics and EU migration hotspots. We have used the established tools of legal scholarship, including comparative law, enriched with theories, methods, and insights from other disciplines. Some team members have degrees in economics, global studies, history, philosophy, physics, and political science. We share a public law approach, with its dual concern with authority and legitimacy.

Two **Max Planck Law** Fellows have linked the department with the Max Planck Institute for Legal History and Theory (Frankfurt/Main). One is René Uruena (Universidad de los Andes, Bogotá) who has linked us with Thomas Duve through the project "**Communities of Practice and the Transnational Production of Human Rights Knowledge in Latin America**" (see p. 113). The other is Antoine Vauchez (CNRS, Paris) who has linked us with Stefan Vogenauer through the project "**Independence and Democracy in the European Union: A Historical and Socio-legal Approach**" (see p. 113).

The most important cooperation partners in Germany have been the Goethe University, the Justus Liebig University, and the Ludwig Maximilian University. Internationally, the most important partners were the Inter-American Court of Human Rights, the Catholic University of São Paulo, the Instituto de Investigaciones Jurídicas (Mexico City), the Universidad de los Andes and Universidad Externado de Colombia (both in Bogotá), the Bocconi University (Milan), the European University Institute (Florence), the Eötvös Loránd University (Budapest), the LUISS Guido Carli University (Rome), the Warsaw University of Social Sciences and Humanities, the Vienna University of Economics and Business, and Tel Aviv University.



PROF. DR. ARMIN  
VON BOGDANDY   
Director at the Institute





## RESEARCH AREA

### The Law of European Society

#### THE TRANSFORMATION OF EUROPEAN PUBLIC LAW

The department's research in European law develops it from its foundation in Art. 2 EU Treaty. The most basic strand of research has reconstructed the transformation (Strukturwandel) of public law in Europe as the emergence and democratisation of European society, as posited in Art. 2 TEU. A second research strand understands Art. 1 to 19 TEU as the constitutional core of the European Union and reconstructs all primary law on this basis. The third research strand studies systemic deficits in European society and has developed strategies for dealing with them. A fourth strand has produced a series of books that show the various national systems of public law in light of a *Ius Publicum Europaeum*.

#### THE EMERGENCE OF A DEMOCRATIC EUROPEAN SOCIETY

What is the "ever closer union of the peoples of Europe" about, which the Rome Treaty posited in 1957? After 70 years of European integration, Art. 2 TEU provides an answer: the ever-closer union is first and foremost about a European society characterised by the 12 principles of this provision. Thus, European law is the law of European society committed to democratic constitutionalism. Articles 1(2), 3(1) and 13(1) TEU require European institutions to deepen this commitment.

This idea was first elaborated in von Bogdandy's **Strukturwandel des öffentlichen Rechts. Entstehung und Demokratisierung der europäischen Gesellschaft**, Suhrkamp 2022 (published in 2024 as *The Emergence of European Society through Public Law: A Hegelian and Anti-Schmittian Approach* by Oxford University Press). The book reconstructs 70 years of EU law, but also the unfolding of the European Convention on Human Rights and the Europeanisation of domestic public law as the emergence and democratisation of European society. It also points out the current challenges to that process and how they might be addressed.

*Armin von Bogdandy, Strukturwandel des öffentlichen Rechts (Suhrkamp, 2022)*

*Armin von Bogdandy, The Emergence of European Society through Public Law (Oxford University Press, 2024)*



The concept of society, introduced by the Lisbon Treaty in 2009, allows a theoretical breakthrough because it provides EU law with a 'collective singular' at the level of state, nation, or people. Public law thinking in the Western tradition depends on such concepts. European society also allows a richer understanding of European conflicts: they no longer appear only as conflicts between Member States, but also as conflicts within one society. Conflicts over the rule of law, for example, are no longer to be understood as just between liberal Western Member States and illiberal Eastern ones, but within a single society. Another change of perspective concerns third-country nationals: third-country nationals residing in the Union are part of the European society. Overall, this society-centred approach provides a new path for the reconstruction and interpretation of European law.

The book has been rebuked by the president of the Academic Board of the Carl-Schmitt-Gesellschaft (Florian Meinel, in *Soziopolis*). The **overall reaction**, however, was positive, starting with Sabino Cassese's review in the Italian daily *Il Foglio*. The book was presented at the Italian Constitutional Court (presided by Giuliano Amato), at the Conference of German Landesminister of European Affairs, and at dedicated seminars in Berlin, Bukarest, Campobasso, Catanzaro, Darmstadt, Heidelberg, Frankfurt, Milan, Paris, Rome, Stockholm, Trento, and Zürich. A full course at Tel Aviv University compared the emergence and democratisation of European society with the emergence and democratisation of Israeli society.

## AS PART OF THIS PROJECT, VARIOUS DISSERTATIONS EMERGED:

### GIACOMO RUGGE

“**Trilogues: The Democratic Secret of European Legislation**” (to be published by Cambridge University Press); Rugge has since joined the Legal Service of the Council of the European Union.

### THEODOR SHULMAN

“**The Challenge of Stability. Niklas Luhmann’s Early Political Sociology and Constitutional Adjudication in the United States and Germany**”, published in the Institute’s Schwarze Reihe; he joined Redeker, one of Germany’s leading law firms on public and European law.

### CATHARINA ZIEBRITZKI

“**The EU’s Responsibility in the Asylum Administration. Administrative Integration, Judicial Protection and the Case of EU Hotspots**” (defended in 2024); she moved on to be a Referendar in Berlin.

Two Habilitationenprojekte are situated in this context: **MATTHIAS GOLDMANN**’s research on “The Constitution of Capital. A Study in Law and Political Economy” and **MICHAEL IOANNIDIS**’ research on “Law and Policy of EU Conditionality”.

## THE EUROPEAN RENAISSANCE OF REPUBLICANISM


Article 16 of the 1789 French Declaration of the Rights of Man and Citizen posits society as a key concept of republicanism. Thus, it was a lucky coincidence that the Arbeitskreis Grundlagen des öffentlichen Rechts of the Vereinigung der deutschen Staatsrechtslehrer asked Armin von Bogdandy to present on Renaissance des Republikanismus at its Bochum meeting in October 2023. That opportunity allowed the enrichment of the Strukturwandel’s approach with a further body of thought, namely that of republicanism.

While globally republicanism is experiencing a crisis, one can see a resurgence, or renaissance, within European society, considering how the constitutional law of the European Union is developing. The study unfolds a topical concept of republicanism, provides evidence for its resurgence (drawing from a range of proposals, debates, legal acts, and judgments) defends its compatibility with core republican concerns (self-determination, virtue, and a public forum) and outlines prospects for future scholarly work and legal interpretation. Thus, the text presents European republicanism as a coherent and principled approach for the EU reform that the European Council initiated on 14 and 15 December 2023.





**DR. GIACOMO RUGGE**

EU Law; Constitutional Law; Administrative Law


**DR. THEODOR SCHULMAN**

Comparative Constitutional Law

**DR. CATHARINA ZIEBRITZKI**

EU Law; Migration Law




**PROF. DR. MATTHIAS GOLDMANN**

Legal Approaches to Globalisation; Law of Public Finance




**DR. MICHAEL IOANNIDIS**

EU Law; International Economic Law; Comparative Public Law; Theory of Law



Beyond Bochum, the study was presented at the Brazilian Supreme Court under its republican chief justice Roberto Barroso, as well as in Berlin, Brescia, Frankfurt, Milan, Rome, Tel Aviv and a seminar (in early 2024) at the Institute with members of the Commission’s Legal Service on their book on “70 Years of EU Law. A Union for its Citizens”, thereby feeding it into the EU institutions.

The study will be published in the dedicated series of the Arbeitskreis with Mohr Siebeck. An English translation is under consideration.



Armin von Bogdandy,  
Michal Bobek, Pál Sonnevend,  
Adam Bodnar, *Transition 2.0*  
(Nomos, 2023)



*Transition 2.0 Seminar, 2023*

## RE-ESTABLISHING CONSTITUTIONAL DEMOCRACY IN EU MEMBER STATES

The European Union rests on the values of democracy, the rule of law and human rights (Article 2 TEU), but some Member States are not committing to these values. When it became clear that such failure concerns not only these countries but European society as a whole, European responses became a pressing issue. In 2012, we developed the „Reverse Solange“ approach, in 2015 the concept of „systemic deficiencies“ for fragile states. In 2020, with Michal Bobek, Adam Bodnar, and Pál Sonnevend as well as Matey Avbelj, Dario Castiglione, Pawel Filipek, Diego García-Sayán, Christophe Hillion, Sara Iglesias Sánchez, András Jakab, Maryhen Jiménez, David Kosař, Zdeněk Kühn, Angelika Nußberger, Jiří Přibáň, Kim Lane Scheppele, Werner Schroeder, Katarína Šipulová, Luke Dimitrios Spieker, Maciej Taborowski and Mirosław Wyrzykowski, we took a step forward: from defending to restoring constitutional democracy. The research question was how any new government could do that in the context of European society.

The project addresses a novel situation: the democratic transitions in the 1990s (Transition 1.0, in our counting) were largely unrestricted by international or EU law. This changed in respect of Transition 2.0. EU law and the European Convention on Human Rights are key, with a dual role: they constrain democratic transitions, in particular through the principle of the rule of law, but they also facilitate the path back to

full constitutional democracy. This calls for skilful lawyering as well as an important but measured role of European institutions.



Luke Dimitrios Spieker,  
*EU Values Before the Court of Justice. Foundations, Potential, Risks* (Oxford University Press, 2023)

The various contributions explore the constitutional, legal and social framework, and best steps to take. Armin von Bogdandy and Luke Dimitrios Spieker show how the primacy of the EU law constraints sweeping legislative measures. At the same time, primacy leads to possible criminal liability of Polish judges who have become instruments of arbitrary repression. It can also help overcome Hungarian constitutional entrenchment of certain policies.

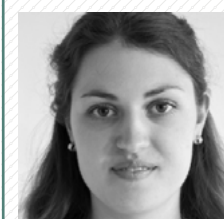


PROF. DR.  
ACHILLES  
SKORDAS

Geopolitics; Public International Law; EU Common Foreign and Security Policy; Migration Law and Policy



Matthias Schmidt,  
*Verfassungsaufsicht in der Europäischen Union*  
(Nomos, 2021)



LEA BERGER

EU Law; EU Constitutional Law; Comparative Constitutional Law of Federal Systems



The **book** was published open access in September 2023. In October, the Polish opposition won the elections. Adam Bodnar became the Minister of Justice, and Maciej Taborowski was entrusted to participate in the reform of Polish public broadcasting.

### THREE DISSERTATIONS EMERGED IN THE CONTEXT OF THIS PROJECT:

#### MATTHIAS SCHMIDT

<https://www.nomos-elibrary.de/10.5771/9783748925958.pdf>. He is now an EU official in the respective department of the Commission.

#### LUKE DIMITRIOS SPIEKER

**EU Values Before the Court of Justice. Foundations, Potential, Risks.** The dissertation won the Otto Hahn Medal in 2023 and the Wilhelm Bender Prize in 2022, and was shortlisted for the Deutsche Studienpreis. Luke Dimitrios Spieker is continuing an academic career.

#### SILVIA STEININGER

**Dynamics of Resilience. Regional Human Rights Regimes in Times of Backlash.** The book is under consideration for publication with Cambridge University Press. Silvia Steininger then became a postdoctoral researcher at the Hertie School, Centre for Fundamental Rights, while continuing cooperation with the Institute on a small contract. She has won the Pünder Prize as the best "an der Goethe-Universität Frankfurt am Main formell abgeschlossene Qualifikationsarbeit im Themenkreis ‚Freiheit und Herrschaft in Geschichte und Gegenwart“.

### THE CONSTITUTIONAL CORE AND BASIC STRUCTURE OF THE EU-TREATIES

A key idea of the Strukturwandel is that European law finds its constitutional core in Article 2 TEU. This project with Jelena von Achenbach, Philipp Dann, Anuscheh Farahat, Claudio Franzius, Matthias Goldmann, Michael Ioannidis, Stefan Kadelbach, Karen Kaiser, Christoph Krenn, Isabelle Ley, Anna-Katharina Mangold, Christoph Möllers, Mehrdad Payandeh, Giacomo Rugge, Robert Schütze, Ferdinand Weber and Mattias Wendel, organised by Jürgen Bast and Armin von Bogdandy, develops this idea.

First, the project deepens the understanding of the constitutional core (or "identity" as the CJEU puts it) and expands it to include Art. 1 and Art. 3(1) TEU. Second, it identifies a basic structure of EU constitutional law in Articles 1 to 19 TEU. In fact, the Treaty of Lisbon realises much of the long-standing project to provide the Union with a "basic treaty" that brings



European Society Group, 2023

together the fundamental decisions. This allows de lege lata to conceive a new, far more constitutional order within EU primary law. This, in turn, allows to better understand, systematise and interpret it, remembering Dreidre Curtin's famous dictum that the Treaty on European Union brought "constitutional chaos".



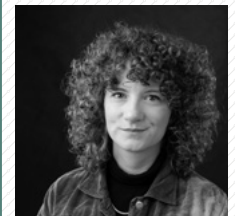
DR. LUKE DIMITRIOS SPIEKER

Constitutional Law; European Law; EU Law (esp. EU Constitutional Law); EU values; Relationship of national constitutional courts and ECJ



DR. MATTHIAS SCHMIDT

Law of the European Union, in particular European Constitutional Law; The Rule of Law and Systemic Deficiencies in European Union Law; Comparative Public Law



DR. SILVIA STEININGER

Interdisciplinary Approaches to International Law; Law of International Organisations; International Courts; Human Rights; Investment Law and Arbitration; Political Theory





**DR. DESIREE  
CHANTALE  
SCHMITT**



European and German Immigration Law; Comparative Constitutional Law; German and U.S. Constitutional Law; European and Public International Law; International Human Rights Protection



Each contribution focuses on one basic provision, presenting its history and its systemic role as the 'head' of further provisions 'downstream' in the Treaty on the Functioning of the European Union. It then embeds it in theoretical and doctrinal debates, showing what difference the new approach makes. In sync with scholarship's critical function, the contributions show deficits in fully realising the "Lisbon" constitutional model. Articles 1 to 19 TEU provide for internal critique and reveal European constitutionalisation as an unfinished project.

This project builds on the former project "Principles of European Constitutional Law". Nomos will publish the German version in 2024, and an English edition is in preparation. The key idea is expressed in this article: Jürgen Bast/Armin von Bogdandy – Grundlegentel und Verfassungskern der EU-Verträge, *JuristenZeitung* 79 (2024), 115–125; (English version [here](#)).

### EXPLORING EUROPEAN SOCIETY

Research on European society is still at the beginning, in particular as a legal concept. In 2023, Loïc Azoulay (EUI) and Armin von Bogdandy set up an interdisciplinary group consisting of Marcin Baranski, Hauke Brunkhorst, Johanna Croon-Gestefeld, Floris de Witte, Nils Graaf, Alina Isakova, Sabine Mair, Grégoire Mallard, Antonio Marzal, Giacomo Tagiuri, Jennifer Orlando-Salling and Silvia Steininger to further explore its potential to understand the Europeans' condition. The project started in early 2024. The group includes members versed in law, sociology, anthropology, philosophy, the history of ideas, post-colonial studies, economics, political science, political theory, social history, and socio-legal studies. The eventual contributions will form an open-access publication.



**ERIK TUCHTFELD**



Platform Regulation; Data Protection Law; Comparative Constitutional Law; International Human Rights Law



### THE HEIDELBERGER GESPRÄCHSKREIS VERFASSUNGSGERICHTSVERBUND

The Institute continues to provide a venue for in-depth discussion on European constitutional law with the Heidelberger Gesprächskreis Verfassungsgerichtsverbund, organised annually with Christoph Grabenwarter, Peter M. Huber and Andreas Voßkuhle since 2016. It counts among its participants leading judges from European as well as many national courts, including the President of the German Federal Constitutional Court, the President of the Court of Justice of the European Union, the President of the Slovenian Constitutional Court, among others. The closed setting under the Chatham House Rule allows for a free exchange on critical issues.

Today, many courts in Europe cooperate closely to better perform their duties. It is this cooperation that the notion Verfassungsgerichtsverbund grasps. This cooperation contributes to European unity, but also helps safeguard democracy and the rule of law when called into question in parts of Europe. The choice of topics (e.g. Constitutional Courts and the Media, Mutual Trust, Defending Constitutional Democracy) and discussions are intended to facilitate an exchange that contributes to a better mutual understanding of the individual legal systems and judicial practices. The various experiences are a valuable resource that can be used even more effectively if they are shared, explained, questioned and reflected jointly. A red thread is to raise awareness of the threats to the effectiveness and independence of constitutional courts.

## Transformative Constitutionalism in Latin America

### THE BLOSSOMING OF THE ICCAL-NETWORK

The idea of a transformative constitutionalism in Latin America through a common law of human rights (**Ius Constitutionale Commune en América Latina**, or ICCAL) animates a network of scholars from Latin America, the United States, and Europe, with our department being one of its hubs. To date, around 600 individuals associate with the ICCAL-network by participating in its conferences and publications. **DR. MARIELA MORALES ANTONIAZZI** is the beating heart of this network and truly an ambassador of the Max Planck Society to Latin America.

ICCAL fits the Institute's mandate as it received its fundamental input from the 'nunca más' of the 1980s: 'never again' brutal repression. That thrust includes the study of related phenomena such as social exclusion and inequality, social violence, and weak institutions. Thus, studying ICCAL requires combining international law with comparative public law. The respective transformative processes (including various backlashes) are occurring in different countries, a comparative perspective is de rigueur. As the Inter-American system, especially the Inter-American Court of Human Rights, is a key actor, ICCAL shows a strong international law dimension. Studying ICCAL requires a broad approach: doctrinal and socio-legal methods, theoretical inquiries, as well as involving political science and economy.

In the last three years, we organised 59 ICCAL seminars (coloquio iberoamericano) with an average of 20 participants and 7 ICCAL conferences with an average of 60 participants. Key individuals were present such as Presidents of the Inter-American Court (Eduardo Ferrer Mac-Gregor, Ricardo C. Pérez Manrique, and Nancy Hernández), the Secretary General of the Inter-American Court (Pablo Saavedra), many of its Judges, Presidents of the Inter-American Commission (Esmeralda Arosemena, Antonia Urrejola, Joel Hernández, James Cavallaro,

and Julissa Mantilla), the Vice President of the Inter-American Commission (Flávia Piovesan, an AvH Georg Forster Research Awardee), the Secretary General of the Inter-American Commission (Tania Reneaum), Special Rapporteur on Economic, Social, Cultural, and Environmental Rights (REDESCA) of the Inter-American Commission (Soledad García Muñoz), a Latin American Judge of the International Criminal Court (Socorro Flores Liera), Presidents of the Constitutional Court of Colombia (Diana Fajardo and Alejandro Linares) with various of its Judges, as well as a Judge of the General Court of the European Union (José Martín y Pérez de Nanclares) and a former Judge at the European Court of Human Rights (Luis Lopez Guerra). There was also exchange with the Chilean Ministers of Foreign Affairs (Antonia Urrejol and Alberto van Klaveren) as well as with the Colombian Minister of Justice (Néstor Osuna).

Dialoguing with indigenous peoples is of particular importance for this project, as we did with a Wampis delegation from Peru in 2022 that came to the Institute. We went to the Brazilian Amazonas in 2023 to discuss our approach with judges, some of whom hailed from indigenous communities.



**DR. MARIELA MORALES ANTONIAZZI**

Ius Constitutionale Commune en América Latina (ICCAL); Transformative Constitutionalism; Inter-American Human Rights; Democracy; Impact of the Inter-American Human Rights System

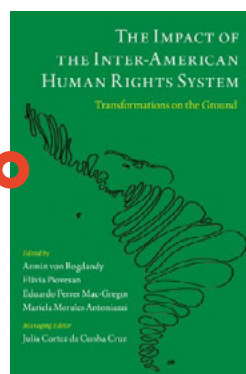


17



Wampis delegation from Peru at the MPIL, 2022

Armin von Bogdandy, Flávia Piovesan, Eduardo Ferrer Mac-Gregor & Mariela Morales Antoniazzi, *The Impact of the Inter-American Human Rights System: Transformations on the Ground* (Oxford University Press, 2024)





**FRANZ CHRISTIAN EBERT**   
 Transnational Labour Law; International Economic Law; International Institutional Law; Human Rights Law



In the last three years, we co-edited 17 books on the subject. Armin von Bogdandy gave keynote speeches and lectures at the Inter-American Court of Human Rights during its meeting with the European and the African Court, at the Brazilian Supreme Court, at the Supreme Court of Mexico, at the Supreme Court of Costa Rica, as well as at the celebration of 30 years of transformative constitutionalism in Colombia. Mariela Morales Antoniazzi has lectured i.a. at University Salamanca, University Castilla-La Mancha, and University of Navarra in Spain, University of Siena in Italy, University of the North in Colombia, the University Austral of Buenos Aires in Argentina, and the Pontifical Catholic University of São Paulo in Brazil. Research on transformative constitutionalism is finding its way to Europe: Armin von Bogdandy presented it to the Ukrainian Constitutional Court, as a keynote at ICON-S Italia, and used it in the Transition 2.0 project (see p. 14).

In the reporting period, the Institute invested heavily in a dedicated **ICCAL website** that serves didactical purposes. Indeed, several Latin American universities have started teaching ICCAL. Examples include Universidad del Norte, the Pontifical Catholic University of São Paulo as well as the Pontifical Catholic University of Paraná. There is also a course in Spain at the University of the Basque Country.

**THE IMPACT OF ICCAL ON THE GROUND**

ICCAL meets the objection that it is a castle in the air because compliance with the decisions of the Inter-American Court of Human Rights is low. The ‘Transformations on the Ground’ project addresses this objection. Its key response is this: if transform-

ative constitutionalism is about transforming social realities, then compliance cannot be its paramount objective. Rather, the guiding concern is to make useful changes on the ground.

Impact, then, is the key concept. This is not to excuse states that disregard international decisions, but to find an approach that is consistent with the basic thrust of transformative constitutionalism. This conceptualises the logic of many decisions: when the Court orders a state to find the remains of a person who has disappeared 20 years ago, it is obvious that the Court is looking beyond compliance.

The project defines transformative impact as structural changes in social reality that result from the Inter-American System’s decisions. The project thus addresses the root causes of violations rather than focusing solely on their individual dimensions. With an interdisciplinary group, we analysed how the Inter-American System enables such impact. This includes its victim-centred approach, its community of practice, and its institutional resilience. Along this path, one understands how this System with few resources, few cases, and low compliance rates has become a global reference and pioneering institution.

The project shows the transformative impact of the Inter-American System, its successes as well as its shortcomings. Its contributions study the impact on indigenous and indigenous peoples, persons deprived of their liberty, women, LGBTIQ+ persons, children, older persons, migrants, human rights defenders, as well as on economic, social, cultural and environmental rights, reproductive rights, effective judicial protection and freedom of expression, transitional

# ICCAL NETWORK

**MORE THAN 600 MEMBERS**

**20 LATIN AMERICAN STATES**  
 + USA  
 + EU





ICCAL Seminar, 2023

justice and impunity. Several contributions recommend changes to increase transformative impact: The Inter-American System could expedite cases that address the most pressing issues, develop conversations with broader segments of society, and push for the strengthening of national capacities in these areas. This project was completed in 2023 and published open access with Oxford University Press under a CC BY-NC-ND 4.0 International License on the Oxford Academic platform.

### EXPANDING THE ICCAL APPROACH

Support from the DFG Leibniz Prize ended in 2022. In order to make good use of all resources, we launched several projects that brought the ICCAL approach to new legal fields and involved a wider range of scholars and practitioners. These efforts, directed and organised by Mariela Morales Antoniazzi, have resulted in eight collaborative volumes so far, most of them open access. These volumes have the following titles, which indicate their main contents (click on the picture to visit the link):



Democracy in the face of the pandemic: Inter-American Transformations



The Latin American Common Constitutional Law of Economic, Social, Cultural and Environmental Rights: The Contribution of the Legal Clinics



Ius Commune in Migration and Transformative Constitutionalism in Colombia: A rights-based approach to human mobility



The resilience of the democratic rule of law in Latin America in the face of the COVID-19 pandemic: An approach from the ius commune



The case of Lhaka Honhat vs. Argentina and the trends of its inter-Americanisation



Human Rights of Migrants: A View from the ius commune



Inter-American Democratic Test against COVID-19



The Inter-Americanisation of Administrative Law in Latin America: Towards a ius commune

## BUILDING A COMMUNITY OF HUMAN RIGHTS PRACTICE

The Max Planck Law network greatly supported the ICCAL project by appointing Rene Uruña as a Max Planck Law Fellow with his project “Communities of Practice and the transnational production of human rights knowledge in Latin America”. As its title suggests, it deepens the network by advancing understanding of the role communities of practice that stands behind the common law of human rights.

That has happened so far via two Intensive Winter Schools, each of which brought together 40 participants and about 18 faculty (lecturers, tutors, and facilitators), in a three-day festival of ideas. Participants were selected by a committee composed of MPIL scholars, through an open call published through social media, resulting in more than 250 applications for each instalment.

The schools deepened our Spanish-speaking space of interaction, learning, and mentoring for young Latin American jurists, who otherwise would not have access to such an environment. The Schools featured keynote lectures and scholarly discussion, complemented by a “writing school” where more senior scholars discussed the participants’ drafts; a “skills schools” focused on nurturing practical abilities such as grant-writing and talking about one’s project to the media; a “methods seminar” where seminal methodological readings were discussed in smaller groups led by a young post-doc (to learn how to lead a seminar) and “Meet to Inspire” sessions, where participants meet a pathbreaking individual whose work has been an inspiration for many.

The Project also organised three workshops in Heidelberg, with the goal of intervening in three scholarly debates that seem crucial for the future of ICCAL: “Climate Emergency and Transformative Constitutionalism in Latin America: Lessons and challenges for the Global South”; “Regulating the Algorithmic Welfare State in Latin America”; and, finally, “A Distant War? Latin America, International Law, and Russia’s War Against Ukraine”. Each of these workshops will result in the open access publication of collaborative volumes in English or Spanish.

## THE ICCAL COLLABORATION LAB ON DEMOCRATIC RESILIENCE

The ICCAL COLLABORATION-LAB project aims to take the *Ius Constitutionale Commune en América Latina* project to a new level by organising ten trans-regional authors’ teams for a three-year collaboration. Each LAB-team will write a joint text on a key issue of democratic resilience that combines European and Latin American lenses, findings, experiences and approaches.

This is not meant to be a one-way street from North to South. Rather, the project aims to bring Latin American knowledge in dealing with systemic problems such as corruption, authoritarianism, and fragile statehood to Europe as it struggles with similar problems. Thus, the project will evolve the method of transregional comparison to generate mutual learning. It will also provide for mentoring of young researchers.

The key output should be a book with joint chapters of 40–50 pages on ten key topics. To strengthen the project’s visibility and to share its transregional experience (not least how to deal with the many differences in style and academic practices), the teams will develop podcasts for the ICCAL website. This endeavour is generously supported by additional funds of the Max Planck Society and will be evaluated by the Institute’s Fachbeirat.

## International Public Authority

**International Public Authority** provides the focus for **a number of projects** analysing the public authority exercised by international institutions. Over the last decade, the project has applied the conceptual tools of international public authority to **understand the rise of powerful international institutions, the proliferation of “soft” law and new international fora, as well as the authority of international courts and tribunals**. To improve the legitimacy and effectiveness of these activities, we propose a theory of international public law. The purpose of this theory is to identify, reconstruct and develop that segment of public international law that governs the exercise of international public authority.

With the erosion of the liberal international world order and shifting geopolitical landscapes, we see an increasing backlash against international institutions and international courts. Yet, the exercise of international public authority continues even under changed circumstances. In light of these developments, project members analyse how the exercise of international public authority shifts, weakens, and persists in the face of a multitude of international crises.

## GLOBAL HEALTH GOVERNANCE

Armin von Bogdandy and **PEDRO A. VILLARREAL** analysed the **Role of international law in vaccinating against COVID-19**. Following the IPA approach, the focus was on the COVAX Initiative, an innovative initiative of the WHO and a private charity under Swiss private law that uses English law for its contracts. At stake was the distribution of scarce vaccines against COVID-19 in a situation of rampant vaccine nationalism. The research presents the main legal instruments of vaccine nationalism as well as the COVAX Initiative as an instrument for a fairer global distribution of the life-saving medicine. An analysis of the international right to health shows the normative underpinnings of COVAX and the promise it holds for sustainable solidarity. Armin von Bogdandy and Pedro Villarreal taught a course on the topic at University of Philadelphia Law School.

Pedro Villarreal moved on to a position with Stiftung Wissenschaft und Politik in Berlin, a think tank for the German Federal Government. He continues with a small contract with the Institute, thereby bridging the world of think tanks and 'pure' research and feeding it his knowledge on international health law.

A related topic is the habilitation project of **LAURA HERING "Mobilising the constitution during the Covid-19 pandemic"**.

## INTERNATIONAL CLIMATE GOVERNANCE

Global climate change governance is complex. It involves many legal instruments, a great number of different actors and networks. The ambition of this **research project** by **MORITZ VINKEN** is to grasp, analyse, systematise and critique these governance mechanisms insofar as they exercise public authority.



**MORITZ VINKEN**

International and Transnational Environmental Law; the International Public Authority Approach



**DR. THALIA VIVEROS UEHARA**

International Human Rights Law; Climate Change and Environmental Law and Governance; Inclusion and Social Development; Transnational Communities of Practice



**DR. PEDRO VILLARREAL**

Health Law, Public International Law, Comparative Public Law



**DR. LAURA HERING**

EU Law; EU Administrative Law; Public Law; Comparative Public Law



The project is structured into two parts. The first part aims to identify the central governance mechanisms and to examine to which extent their instruments should be considered exercises of public authority. It will present the legal frameworks of these instruments in order to make them accessible to a critical analysis of their legitimacy and effectiveness.

The second part provides four lenses for such critical analysis: They are drawn from central conflict lines in international law: (1) between national and international fora, (2) the North/South Divide, (3) the Public/Private Divide and (4) the dialectic between science and politics. These lenses will deepen the understanding of the law as well as its legitimacy and effectiveness. The analysis through these four lenses will reveal global governance more generally as shaped by these lines of conflict, thereby making a contribution to general international law.

## CLIMATE LITIGATION

The **doctoral thesis** by **THALIA VIVEROS UEHARA** examines how litigants and domestic courts in Latin America address the coupling of two pressing issues: the severity of climate change and the region's pervasive poverty and social exclusion, particularly the lack of or inadequate access to healthcare.

Drawing on the Latin American transformative constitutionalism framework and using a multi-method approach, the thesis explores the interplay between the legal and socio-political factors that influence the outcomes of climate litigation. Through systematic content analysis, as well as doctrinal and empirical research on 77 domestic climate change lawsuits across the region this work assesses the roles of claimants' and courts' profiles, motives, resources, and political contexts in shaping their responses.

The thesis argues that although claimants and domestic courts have recently begun to interpret the right to health in light of the region's transformative constitutionalism and international climate change

law, the outcomes often fail to address how climate change and health are entangled. Leveraging the transformative potential of Latin American constitutionalism to tackle the region's health crises through constitutional courts appears to be facilitated by claimants pursuing community lawyering anchored in wider social movement structures, the broadening of legal standing rules, the implementation of integral remedial designs, and a deeper judiciary understanding of claimants' social contexts. Such possibilities are especially promising in countries with progressive legal traditions, such as Colombia and Ecuador.

### THE LAW OF NUCLEAR FUSION


Nuclear fusion – the Sun's energy source – has the potential to revolutionise energy production on Earth. Fusion has the potential to provide humanity with a virtually unlimited, emission-free and safe energy. While research has been going on for decades, the commercialisation of this technology is imminent. However, there are also military applications of this technology. Fusion facilities might be used to produce nuclear weapon grade material and fusion is indispensable for modern thermonuclear weapons and hydrogen bombs. This **PhD project** by **PHILIPP SAUTER** analyses from a technical-physical perspective the potential how peaceful fusion could be misused for military purposes. It then explores from a legal perspective how the current legal regime of nuclear weapons addresses these risks and develops methods to adapt the legal regime to fusion energy.


### THE LAW OF MONETARY COORDINATION

International monetary policy coordination occurs in the International Monetary Fund (IMF) and central bank, but not only. Given the inextricable relationship between money, investment and trade, further international regimes contribute towards coordinating monetary policy. They engage different actors, divergent instruments and exert varying levels of influence on domestic monetary autonomy.


Against that backdrop, the first task of this project was to conceptualise the law on monetary policy coordination by identifying those institutions, forums and mechanisms through which such coordination transpires in the international realm. By studying their legal form and content this work contributes to a holistic understanding of global governance in monetary affairs, which has hitherto remained under-explored in legal scholarship. In a second step, through a public law approach, this project identifies the authority embedded in international monetary coordination and addresses its accountability and legitimacy.

The **dissertation** was completed in 2023. **KANAD BAGCHI** moved on to a post-doc position at the University of Amsterdam.



**PHILIPP SAUTER** 

Nuclear Law;  
Law of Nuclear Fusion;  
Law of Disarmament;  
Law of Climate Change




**KANAD BAGCHI** 

Public International  
Law; Critical Theory;  
International Monetary  
Law and Coordination;  
Central Banking Law;  
Transformative  
Constitutionalism



## INVESTMENT PROTECTION FOR SUB-SAHARAN AFRICA

This **research project** by **MARTIN JARRETT** examines: how could a Multilateral Investment Court be made beneficial for the states of Sub-Saharan Africa?

The Multilateral Investment Court (MIC) is a newly proposed international court for resolving investor-State disputes. Currently such disputes are settled by arbitration. Some States have advocated for reforms to this system for (i) lack of consistency of jurisprudence and predictability of outcomes, (ii) lack of transparency of arbitral proceedings, (iii) perception of bias among arbitrators, (iv) frivolous claims, and (v) the high costs of ISDS proceedings. A reform process is underway, and it is expected to conclude in 2025. Over 100 States are locked in negotiations, including 15 from Sub-Saharan Africa. The most prominent reform proposal put forward is the MIC, which is the brainchild of the European Union.

Some States have indicated their intention to sign up to the MIC. Sub-Saharan African states are discussing whether and under what conditions the MIC could be beneficial for them. The Institute organised a seminar in November 2022 at the Mandela Institute, University of the Witwatersrand to discuss this question. The panellists were African junior scholars, while the other participants were senior scholars and government officials. With this format, African junior scholars could present their ideas on making the MIC beneficial for Sub-Saharan Africa directly to the decision-makers. Proposals included (i) giving a right to local (African) communities to sue foreign investors in the MIC, (ii) using the MIC as part of the toolkit that could be used to fight endemic corruption in Sub-Saharan Africa, and (iii) better facilitating the possibility for African investors to bring claims against States for the mistreatment of their investments.

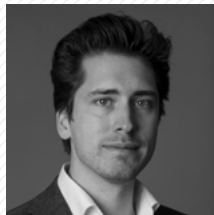
The workshop papers are published as blog posts on **Afronomicslaw Blog**. Additionally, the preparation for an anthology containing these papers is underway.



**DR. MARTIN  
ANDREW  
JARRETT**



General International Law; International Public Law; and International Investment Law



**DR. PHILIPP  
GLAHÉ**



Contemporary Legal History; Contemporary German and French History; Institutional History; History of Science









# DEPARTMENT ANNE PETERS



## VISION

The international legal order is being profoundly shaken. Blatant violations of the most basic principles of the *ius ad bellum* and *in bello* in Ukraine and **Gaza** can hardly be contained. Economic and cultural power seems to shift away from the formerly leading Western states. The fruits of economic globalisation are distributed unevenly. The **pandemic** has exacerbated these trends and laid bare the weakness of international law. Ecologic and climatic disaster is unfolding.

These developments give rise to a deep critique against the existing international institutions, procedures, and principles because these are seen to be insufficient for addressing global problems or even as being part of the problem itself.

Therefore, scholars of international law need to analyse the law as it stands, in its political and historical context, must critically expose the law's shortcomings and limits, and contribute to legal reform. We particularly need scholarship that addresses the new security problems in Europe and beyond, that pays more attention to global economic inequality, that productively engages with the values of non-European cultures, and that designs tougher governance mechanisms for safeguarding the integrity of our planet.



27

## RESEARCH PROGRAMME

In the current situation of political, economic, ecologic, and cultural volatility and change, **ANNE PETERS** and her group perform research in the field of international law. Projects often include a comparative dimension, and to that extent also involve research on European and domestic law.

In its entirety, the group's research constitutes a mosaic of ideas and findings and is not limited to specific branches of international law. Corresponding to the challenges sketched out above, research has been conducted on topics that fall within the three foundational pillars of the international legal order: **Peace, people, and the planet**. Topics are also investigated in their historical dimensions. See [here](#) for **Anne Peters'** theses.

Between 2021 and 2023, research reported in this section was conducted by **Anne Peters**, nine post-doctoral researchers, and 14 doctoral students. Eight PhD theses were completed. Five habilitation projects have been initiated and are ongoing. Three consecutive publications are managed by members of this group (**MPEPIL**, **ZaöRV**, and **JHIL**). In total 21 books were published, besides more than 120 scholarly papers, book chapters, and blog posts. See here for **Anne Peters' research output 2021–2023**.

## RESEARCH CONCEPT AND METHODS

The team's research is not wedded to one single method and is strong due to its methodological pluralism. Not all methods have been evenly applied during the last three years but are always a methodological option.

**Doctrinal analysis:** Projects with a robust doctrinal component seek to order and structure legal concepts, basic principles, and rules on decision-making with regard to a specific question. In this research dimension, the researchers accept the existing legal rules, principles, and decisions as premises; the research is situated fully "inside" the law, using primarily logical semantic analysis. Because of specific qualities of international law (its low density, its uncodified parts, its low degree of systematisation, and its politically-induced lack of clarity and precision), doctrinal analysis taken by itself can yield only limited results and is therefore normally complemented by one or several of the following approaches.

**Empirical analysis:** The group's empirically informed research attempts to study the conditions under which international law is formed and has effects. It requires moving back and forth between collecting (historical, political, and societal) data, constructing models, and testing those in the real world. Between 2021 and 2023, historical research was predominant.

**Theoretical analysis:** Many projects have a component of legal theory in the sense of looking at the law from the "outside". They ask questions about the functions of the law at hand, its structure, or its normativity. Along this vein, a wide array of approaches is available, ranging from law and literature to law and economics. **Critical approaches**, especially **feminist analyses**, are important.

**Ethical analysis:** A number of projects encompass the investigation of the ethical contents of international law (often embedded in specific world views) and criticise these with reference to standards of justice. This comprises reflexion about how to deal with the pluralism of values which is visible in global legal practice.

Some projects combine legal methods with methods of **other disciplines**, notably political sciences, historical studies, philosophy, sociology, and economics. Others only use the findings of those disciplines to complement the legal answers. The types of interdisciplinary linkages sought depend on the concrete research question at hand.

The overarching methodological maxim is to produce arguments and findings that can be understood by researchers with diverse regional or cultural outlooks (**global intersubjective comprehensibility**), and thereby to contribute to a genuinely global scholarship that accommodates pluralism and cultural diversity.



Anne Peters, "Semper Apertus: Wider den epistemischen Rassismus" in: *Koloniale Kontinuitäten im Internationalen Recht* (Berichte der Deutschen Gesellschaft für Internationales Recht 52, CF Müller, 2024).

## Global Seven: Multiperspectivism in International Legal Scholarship

How to overcome our intellectual vulnerability against ethno-nationalism, sovereigntism, populism, and aversion against science? How to secure the insight that our knowledge is historically and culturally situated against the abuse of this apprehension by political hardliners? A reappraisal of the value and importance of a procedural and discursive legal universalism is urgent. The **project “Global Seven”**, led by **Anne Peters** and curated by **Alexandra Kemmerer** (in collaboration with **Lisa Pitz** and **Laura Kraft**), aims to explore international law’s universality in an increasingly instable political and economic environment, in a group of seven leading international law scholars from various regions of the world.

## Blogging as a Scholar

Is international law’s publication infrastructure fit for international legal communication in the 21<sup>st</sup> century? How can the potential of the internet be harnessed for international legal scholarship, and the darker sides of digitalisation be contained? What are the reasons for the slow transformation towards Open Access, and what is the role of blogs in speeding up this process and making it equitable and sustainable? The project, led by **RAFFAELA KUNZ**, funded by the German Research Foundation (Deutsche Forschungsgemeinschaft) (2019–2022), and supported by MPIL, established **Völkerrechtsblog** as a model project in digital and Open Access publishing and **explored the consequences of this transition for international legal scholarship**.

## THEME 1: PEACE

### International Law in Times of Transition

Current blatant violations of international law inspire the search for new mechanisms of legal accountability and new proposals for legal order. Established legal tools can be invigorated to tackle **new issues**, such as human rights-based climate litigation and regional trade agreements. **Our research** contributes

to safeguarding and developing basic principles such as human rights, the international rule of law, self-determination of peoples, and self-defence, while critically examining and proposing new theories and procedures, ranging from corporate human rights responsibility to digital constitutionalism, cyber due diligence, or animal rights.

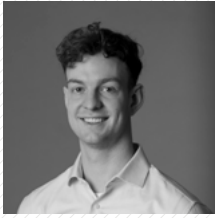


*Global Seven Workshop  
June 2023 Berlin*

## Max Planck Encyclopedia of Public International Law

The **Max Planck Encyclopedia of Public International Law** (MPEPIL) was first published as an online database by Oxford University Press in 2008. In 2021, **Anne Peters** took over the general editorship (following **Rüdiger Wolfrum** and before him **Rudolf Bernhardt**), with **Margrét Sólveigardóttir** as the managing editor.

MPEPIL articles combine elements of a reference work with a law journal approach. Authors are requested to cover their topic comprehensively and – as far as possible – impartially but also to add a personal assessment. The Encyclopedia is continuously being updated and extended. So far, more than 900 academics and practitioners from across the world have contributed over **1,700 entries**.



VALENTIN  
VON STOSCH

General International  
Law; Sanctions; State  
Immunity



## Case-oriented Textbook on Public International Law

International law is a dynamic legal field which can best be understood through real-life scenarios and cases. **The textbook** by **Anne Peters** (since its 5<sup>th</sup> edition co-authored with **Anna Petrig**) is characterised by the wealth of current examples employed to explain international legal persons, the sources of international law, international organisations, the universal prohibition on the use of force, the maintenance of peace and security by the United Nations, international responsibility, sanctions, dispute settlement, and immunities (in its 6<sup>th</sup> edition, on 594 pages).



**Völkerrecht: Allgemeiner Teil, 6th Edition (Schulthess/CF Müller 2023), 594 pages (Anne Peters und Anna Petrig)**

## Unilateral Sanctions Targeting Central Bank Assets

What is the international legal framework governing unilateral state measures targeting assets of foreign central banks? The **PhD project** by **VALENTIN VON STOSCH** examines measures from freezing to seizing assets and seeks to contextualise these foreign policy tools in international law during times of transition.

## Global Constitutional- isation and Decon- stitutionalisation

**Global constitutionalism** is under challenge. The argument has been that parts of international law can be understood as being grounded in the **rule of law** and human rights and that international law (in its interplay with domestic law) can and should be interpreted and progressively developed in the direction of greater respect for and realisation of those principles. But when transposed to the international level, both the **constitutionalist principles** and their modes of implementation have been and must to some extent be modified.

The current geopolitical constellation, with the rise of states without a deeply rooted rule-of-law-tradition, the erosion of democratic states from within, and ongoing rampant human rights violations by states

## International Law and the Internet

What role does international law play for the **internet** and vice versa? **Angelo Golia** and **RAFFAELA KUNZ** explored, in a book and a special issue of the ZaöRV, how international law is shaped by the internet and the platforms, rogue actors, cyber weapons, and multistakeholder approaches to law-making. International law forms part of the **normative infrastructure of the internet**, e.g. as a yardstick for qualifying a state-led information operation via cyber channels as lawful or unlawful, or for determining the rights and duties of online platforms to delete hate speech. However, the question remains how **international law** can successfully fulfil its role - with, next to, or even against emerging forms of transnational private and/or hybrid regulation.



DR. ANGELO  
JUNIOR GOLIA

Legal Pluralism; Relationship between Social Theory and Public Law; Relationship between National and International Law; Italian and Comparative Constitutional Law; Foreign Relations Law; International Organisations Law; Digital Constitutionalism



## International Organisations

### THE CONCEPT OF INTERNATIONAL ORGANISATIONS

and business actors, raises the question of whether a constitutionalist approach to international law can still promise insights and impetus for legal reform. New research in this field must find analytic and normative answers to the seeming **de-constitutionalisation** of international regimes and to the **postcolonial critique** of the international legal order.



Anne Peters, “Proportionality as a Global Constitutional Principle”, in: Anthony F. Lang/Antje Wiener (eds), **Handbook on Global Constitutionalism** (Cheltenham: Edward Elgar Publishing 2023 2<sup>nd</sup> edition) 346–362.

Information obligations on states – to collect, report, or publish – are an important aspect of most modern multilateral environmental agreements. These have developed both alongside and as part of a wider “turn to transparency” in international law. **Transparency** is an increasingly important aspect, indeed a constitutional principle, of international environmental law, and performs compliance-centred, emancipatory, and advocative functions, as **Tom Sparks** and **Anne Peters** argue in their chapter 52 of an Oxford Handbook.

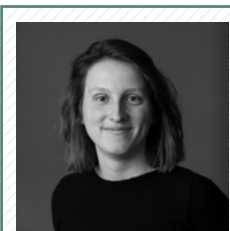
## The Anti-constitutional Moment

**Anne Peters’ Skubiszewski Lecture 2023**, published in 2024, singled out legal trends that relate to the three pillars of the current international legal order: peace, people (humanity), and the planet. Although Russia has breached a fundamental, even constitutional, principle of international law, namely the prohibition of inter-state military force, this breach has productively – though unintendedly – boosted, firstly, a modest reform of the UN architecture and, secondly, a further humanisation of international law. A third trend is the “greening” of the law surrounding war and of the legal status of the individual. These are important positive developments that go to the very heart of international law. With some optimism, the “Ukraine moment” can therefore be seen not only as an anti-constitutional but at the same time also as a constitutional moment.

We need a **legal concept of international organisation** that is both sufficiently specific to have an analytical value for legal examination and sufficiently broad for not missing out on entities that are apt to shape the normative situation of individuals or to deploy substantial direct or indirect legal effects for the fate of nations and for the integrity of our planet. The concept should also encompass actors devoid of legal personality when they are sufficiently structured and stable to distinguish them from mere networks and ad hoc cooperation. Ultimately and more radically, international law as part and parcel of a global legal landscape necessitates the concept of a “global organisation” (**Angelo Golia** and **Anne Peters**).

### INTERNATIONAL ORGANISATIONS AND CONSTITUTIONALISM

The Joint Statement by the Foreign Ministers of China and Russia on Certain Aspects of Global Governance in Modern Conditions of 23 March 2021 calls for “the establishment of a fairer, more democratic and rational multipolar world order.” How has the constitutional theory on international organisations sought to contribute to world order in the past and present? **Anne Peters’ paper** in the Chinese Journal of International Law and a Handbook **chapter** identify three waves of such theory since the 1960s. The first two waves have espoused different conceptions of constitution: The first wave revolved around the “small c-constitution” in the more neutral sense. The second wave postulated constitutions “with a capital C” that enshrine the constitutionalist trinity: rule of law, human rights, and democracy. In the current constellation of a global shift of power and ideology, a third theory for constitu-



HANNAH  
CAROLINE  
SCHAEFFER

Sociology of Law;  
Constitutional Law;  
Critical Legal Theory



tions of international organisations, more responsive to the global social question and to the demands of the global south, is emerging. Looking in more detail at the ongoing third wave, her contributions identify and seek to pull out further a constitutional model which upscales the proto-democratic practices in international organisations by strengthening forums for participation and contestation, which rectifies the north-south imbalance inter alia rooted in the colonial heritage by involving more actors from the global south, and which tackles the global social question upfront. This theory can provide a basis for responses to the current pushback against international organisations.

### COMMENTARY ON ART. 24 AND 25 OF THE UN CHARTER

The United Nations is a key actor in the international legal order. The Security Council is its most powerful organ. The Council's responsibility for the maintenance of international peace and security, the legal principles it has to respect in discharging its duties, and the legally binding power of Council decisions, are spelled out in Art. 24 and 25 of the Charter. **Anne Peters'** commentary (198 pages) on these provisions is published [here](#).

### OVERCOMING VETOES IN THE SECURITY COUNCIL

A veto exercised by a permanent member of the Security Council to shield one's own aggression is legally problematic and illegitimate. The UN Charter **can be reasonably interpreted as prohibiting such a veto** and depriving it of legal force. This argument is based on **Art. 27(3) of the Charter, in conjunction with the prohibition of the abuse of rights**, as a manifestation of the principle of good faith, and the obligation to respect the right to life, against the background that the prohibition of aggression has the status of *ius cogens*. These legal rules generate a legal responsibility of all Security Council members to treat such vetoes as abusive and therefore as an abstention.

Two recent procedural developments (the so-called **veto-initiative** and a **US-American self-commitment**), triggered by the war in Ukraine, seek to discourage vetoes in the Security Council. Reformed working methods are a suitable vehicle to **contain the veto** and thereby to improve the effectiveness and legitimacy of the Security Council.

### INTERNATIONAL ORGANISATIONS AS CONSTITUTION-SHAPERS

International organisations have issued recommendations and prescriptions on constitution-making and reform, especially since 1989. However, such constitution-shaping activities have for the most part not led to a better operation of the rule of law on the ground. In order to become more legitimate (which might then also improve effectiveness), constitution-shaping by international organisations needs to absorb post-colonial concerns. This includes respect for local rule-of-law cultures flowing from non-European constitutional thought and the inclusion of a much deeper social agenda with a global ambition. Thus revamped, **international organisations' constitution-shaping role could be re-invigorated** so as to sustain the rule of law on the domestic level, thereby contributing to global constitutionalism.

## Digital Constitutionalism

Is constitutional theory able to constrain the dangerous social dynamics stemming from the digital revolution? **Angelo Golia** demonstrated how technological developments of the past three decades have revealed **latent deficits of constitutional norms** that had previously constrained the dynamics of democratic politics, capitalist economy, autonomous science, and technology. Against this background, the **special issue** of the Indiana Journal of Global Legal Studies edited by **Angelo Golia** with Gunther Teubner explores the constitutionalising potential of the norms emerging from distinct sectors of world society within the broader context of global constitutionalism, with a critical outlook and concrete proposals in specific policy fields.



**BERNADETTE LUMBELA**



(Comparative) Constitutional Law; Anti-Discrimination Law; International Human Rights Law



## War



 **Highlight: Max Planck Trialogues on the Law of Peace and War**

In each book, three authors discuss one topic within the international law surrounding armed conflict. Each trio is composed so as to engage different modes of legal thinking, intellectual paradigms, regional backgrounds, and professional specialisation. By bringing the pluralism of premises and methods to the fore, the Trialogues facilitate the emergence and global refinement of common legal understandings.

The CUP book series is edited and coordinated by **Anne Peters** and **Christian Marxsen**. The series editors write a short introduction as well as an epilogue to each book. So far, five volumes have been published in the series, two of them in the reporting period.

How does the institutional regime of decision-making on weapons exports relate to the (German, European, and international) law of external relations? Which mechanisms for parliamentary and judicial control exist for the export of military goods? In her **habilitation project, ISABELLE LEY analyses the national, European and international regime of weapons exports.**

**LEON SEIDL's PhD project** investigates the role of **international economic law in peace processes** following civil wars from the perspective of sustainable development. Through case studies of Colombia, Sudan, and Burundi it aims to investigate how peace-builders reconstruct economies.

### THE GERMAN "NATIONAL SECURITY STRATEGY" AFTER THE ZEITENWENDE

Under the shock of the Russian attack on Ukraine, a security strategy with which Germany assumes more responsibility has begun to take shape. With their Verfassungsblog-MPIL symposium "**Security Strategy after the Zeitenwende: Institutions, Law, Politics**", **Alexandra Kemmerer** and **Isabelle Ley** brought together voices from academia and practice, politics, bureaucracy, and the media, from Germany, Europe, and the world. A total of 44 contributions were published in March/April 2022.


## The Domestic–International Law Interface


The foreign relations law of a powerful state such as the USA, in particular, risks marginalising or even swallowing up international law. **Anne Peters' "Behemoth"** article in EJIL discusses four possible strategies to mitigate or counteract that tendency – namely, the normalisation of foreign relations law, more intense restating exercises in international law proper, the elaboration of restatements of other countries' foreign relations law, and, finally, multi-perspectivism.





**DR. ISABELLE LEY** 

Paradigms and Structural Changes in International, European and Constitutional Law; Law of International Institutions; Comparative Constitutional Law; Constitutional Law of Foreign Relations; Security Administration Law (arms export control)

**LEON SEIDL** 

International Economic Law with a focus on Sustainable Development; Law of Peace Settlements and Peacebuilding

**DR. LEANDER BEINLICH** 

International and Regional Human Rights Protection; International Law and Domestic Legal Systems; Reparation in Armed Conflict; Business and Human Rights; German Constitutional Law; Comparative Public Law



**Remedies against Immunities?** The Italian Constitutional Court Judgment 238/2014 denied the German Republic's immunity from civil jurisdiction over claims for reparations for Nazi crimes committed during World War II. This landmark decision created a range of so far unresolved legal problems and controversies which continue to burden the political and diplomatic relationship between Germany and Italy. The judgment has wide repercussions for core concepts such as State immunity, reparation for serious human rights violations, and war crimes (including historical ones). The interaction between international and domestic institutions, notably courts, need to be analysed from the perspectives of international law, European law, and Italian law. The book, co-edited by **Anne Peters**, **Valentina Volpe**, and Stefano Battini, suggests concrete ways out of the impasse with a forward-looking aspiration.

**LEANDER BEINLICH** examined the domestic adjudication of international law through the lens of individual rights and developed the novel concept of access rights. In the field of external state action such as military operations abroad, individual rights have an important role to play at the intersection of international law and foreign relations law. The **PhD thesis** was completed and defended in 2023 and will be published as "Challenging External State Action and Violations of International Law before Domestic Courts" (Elgar 2024).

Regional human rights courts sometimes order states to reform their domestic laws. **LUCAS SÁNCHEZ' PhD thesis** (completed and defended in 2023) compares this practice of the European, Inter-American and African human rights courts. Each of them has developed a competence to intervene in legislative affairs in certain cases. But they should pay more attention to the precise formulation of such remedial measures are worded, in order to allow domestic parliaments a "margin of deliberation".

**JANNIKA JAHN's PhD thesis** examined the intricate relationship between freedom of expression and information and judicial independence and impartiality. The award-winning work (**Ruprecht Karls Prize of the University of Heidelberg**) deals with media access to court proceedings, reporting on court decisions and proceedings, and communication between the judiciary and the media in Germany, England, and France, and draws on the case law of the European Court of Human Rights (**published** with Nomos 2021).

**Anne Peters** examined the legal theory and legal policy dimensions of the principle of "**International law friendliness**" as well as some doctrinal aspects that hinge between theory and politics.



**DR. LUCAS SANCHEZ DE MIQUEL**



International Human Rights Law; International Courts; Spanish Constitutional Law; Latin American Constitutionalism



**DR. JANNIKA JAHN**



European and International Human Rights Law; Business and Human Rights Law; International Environmental Law, esp. Climate Law; Comparative Constitutional Law and Theory; Interdisciplinary Analysis of Law



## Between Public and Private

Private investigations of international crimes, reparation programmes sponsored by individuals, and truth-seeking initiatives by philanthropic foundations have been welcomed by transitioning societies and their international supporters. Yet, the influence of private actors raises critical questions. **JULIA EMTSEVA's PhD thesis** (completed in 2023) explores the **role of philanthropies**, NGOs, and companies in transitional justice processes, positioning their participation within existing international legal frameworks.



**JULIA EMTSEVA**



Public International Law; International Human Rights Law; Transitional Justice; International Humanitarian Law



**DR. RICHARD DÖREN**



General Public International Law (with a focus on State immunity); Comparative International Law





**DR. ROBERT  
STENDEL**



Law of State Responsibility; International Investment Law; Comparative Public Law; German Constitutional Law



Current regulatory efforts in the EU (the Corporate Sustainability Due Diligence Directive) and in the UN seek to prevent and mitigate human rights abuses in the context of transnational business activities.

**Anne Peters, Sabine Gless, Chris Thomale, and Marc-Philippe Weller** argue against a direct opposability of international human rights treaties against business actors, with the exception of peremptory human rights. The various levels and branches of law can complement each other, with private and administrative law standing in the foreground, and criminal legal enforcement as a means of last resort – to realise effective enforcement of human rights vis-à-vis global corporations.

**RICHARD DÖREN's** PhD thesis, **published by Nomos in 2024**, compares the scholarly discourses on business and human rights in the United States and in Germany by analysing the most important international law journals and text books of the two countries. The comparison shows that many issues, for example the question of whether corporations have international legal personality, are addressed differently in the two countries. This can be explained in light of the different international law traditions of the two countries.

**Jannika Jahn** co-edited a **commentary** on the German Supply chain law and curated a special issue in **Rechtswissenschaft** on global supply chains.

**ROBERT STENDEL's** PhD project on private law analogies in international law, **book published by Nomos in 2023**, analysed non-material damages in public international law, from legal, historical, and sociological perspectives. The concept has evolved especially in the three major regional human rights systems and in international investment law. This manifests a move towards a more public-law-like conceptualisation of international law.

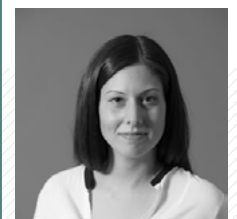
The **PhD project** by **Leo Krause-Wichmann** on the case law of the OECD national contact points investigates the hardening of the soft law of the OECD Guidelines for Multinational Enterprises. It analyses the legal nature and legal effects of the Guidelines and the potential of the National Contact Points to clarify principles and standards.

Legal services are central both to securing the private interests of individual human rights holders and the broader public interest in the rule of law. This **PhD project** by **Justin Krahé** (completed in 2023), provides the first study of the European Court of Human Rights' case law specifically on legal services, and builds on this to examine a wider "constitutional" dimension to the European Convention on Human Rights: its capacity to impose obligations on States not just in the interests of individuals, but in the interests of the entire community.

## THEME 2: PEOPLE

### Individual Rights and Needs

Have rights, especially human rights, been so over-used that we need an alternative legal language to fight injustice? We need complements but not alternatives to rights, because rights perform valuable practical functions and notably trigger obligations of those in power to justify their behaviour. **Rights, especially human rights, may be "not enough", but they are a necessary** and indeed indispensable legal instrument for protecting weak and vulnerable members of society.

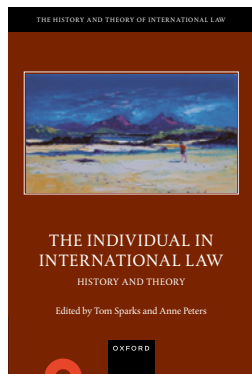


**DR. ELIF ASKIN**



Public International Law; International, European and National Human Rights Law; Socio-economic Rights; Extraterritorial Application of Human Rights; Global Governance; Comparative Constitutional Law; Swiss Public Law; Turkish Constitutional Law





Anne Peters and Tom Sparks (eds), *The Individual in International Law: The History and Theory of International Law*, OUP 2024.



**Tom Sparks** and **Anne Peters** examined how international law has accommodated individuals, and how individual status, rights, and obligations have become denser and more important in the international legal system. Split into two parts, the **book** (published open access with OUP 2024) analyses the humanisation of international law in different historical periods and from various theoretical perspectives, ranging from ius positivism and ius naturalism to Marxism, TWAIL, feminism, **global law**, global constitutionalism, law and economics, and legal anthropology. The editors' conclusion responds to the productive challenges of neoliberalism, Western-centrism, and anthropocentrism.

The principal modern purpose of **international humanitarian law** – to protect humans from the calamities of war – is best pursued by acknowledging direct special **individual rights**, as conceptualised by **Anne Peters**. This is preferable to either of the two extremes: Either applying human rights across the board or denying individual rights in this field of law altogether.

The recent deliberate legal-political strategy of individualising the systemic problem of **corruption** bears risks and opportunities. While the policy agendas of anti-corruption and human rights have been converging on the international and regional levels, the question remains whether **human rights** are the proper normative framework to denounce and combat corruption. **Anne Peters** argues that the currently one-sided integration of corruption concerns into the human rights machinery should be supplemented by a full attention to human rights in all monitoring schemes in the various anti-corruption regimes. This can create a positive feedback loop in

which anti-corruption is instrumental to improving the human rights situation while a range of human rights will work as enablers for fighting corruption.

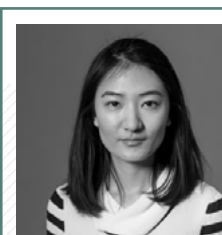
In the early 21<sup>st</sup> century, **threats to fundamental rights** increasingly emanate from private actors. Digitalisation further accelerates and exacerbates this trend. Also, the science system currently witnesses a “platformisation” of the research infrastructure. Espousing a legal-sociological perspective, the **habilitation project** by **Raffaella Kunz** takes the science system as an example to explore the opportunities and the challenges that digitalisation and shift of power from the state to the private sphere pose for fundamental rights law.

**ELIF ASKIN's PhD thesis** (completed in 2022) addresses the question of whether States are legally bound by the International Covenant on Economic, Social and Cultural Rights (ICESCR) if their domestic policies and acts have extraterritorial effects on the socio-economic rights of individuals abroad. It analyses the basis, scope, requirements, and implementation of extraterritorial obligations and concludes that it is no longer justified to restrict the ICESCR's application to States' own territories. An extraterritorial



**LAURA KRAFT** 

General International Law; International Human Rights Law; Refugee and Migration Law



**YUEYAO ZHANG** 

Human Rights Law; State Responsibility; International Criminal Law



itorial application is required to uphold the universal idea of human rights (**published with Nomos** 2024).

**LAURA KRAFT's PhD project** compares the implementation and realisation of the human right to work (access to the labour market) of refugees and asylum seekers in Europe from a feminist perspective. It analyses legal obstacles that specifically affect female forced migrants as well as the obligations arising from international instruments with regard to women's right to work such as CEDAW.

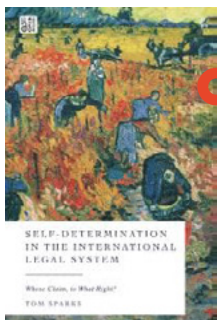
**YUEYAO ZHANG's PhD project** deals with the implementation of state responsibility for breaches of human rights, notably through sanctions.

## Self-Determination in International Law

Self-determination is one of the most important concepts of the international legal order. **TOM SPARKS** suggests a new typology with four categories: the polity-based, secessionary, colonial, and remedial forms. Each is distinguished by the grounds, or the legitimacy-claim, on which it is based. This typology ensures consistency and addresses the practical concerns of those invoking self-determination.

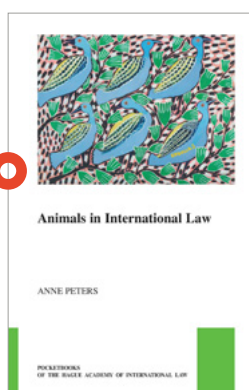
## Anti-Discrimination

**Anne Peters** and **Tilmann Altwicker**, in their 153 page-commentary, analyse the highly dynamic case law of the ECtHR on the prohibition of discrimination, addressing socio-economic inequity, new vulnerable groups such as HIV patients, and digital discrimination. "Kapitel 21: Das Diskriminierungsverbot" [comparative commentary of article 14 ECHR/ article 3 para. 2 and 3 German Constitution], in: Oliver Dörr / **Rainer Grote** / Thilo Marauhn (eds), **Konkordanzkommentar EMRK/GG**, Vol. II (Tübingen: Mohr Siebeck 3rd ed. 2022), 1338–1491.



**Tom Sparks**, *Self-Determination in the International Legal System: Whose Claim, to What Right?*, Bloomsbury 2023.

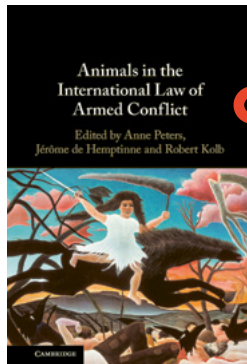
**Anne Peters**, *Animals in International Law* (The Pocket Books of The Hague Academy of International Law 45 Leiden: Brill 2021)



# THEME 3: THE PLANET

## Global Animal Law

Contemporary animal law suffers from a mismatch between almost exclusively national legislation on the one hand, and the global dimension of the problems in need of regulation on the other hand. **Global Animal Law is needed as a response** to economic globalisation, as a contribution to global sustainable development, and as an imperative of global justice.



**Highlight:** *Animals in the International Law of Armed Conflict*. **ESIL Collaborative Book Prize**

**Animals are the unknown victims of armed conflicts.** Wildlife populations usually decline during warfare, with disastrous repercussions on the food chain, on fragile ecosystems, and precarious habitats. Belligerents take advantage of the war chaos for poaching and trafficking of animal products. Live-stock, companion, and zoo animals, highly dependent on human care, are direct victims of hostilities. **The contributions** in the award-winning book, edited by **Anne Peters**, **Jérôme de Hemptinne**, and **Robert Kolb**, inter alia discuss precautions for animal civilians, problems of animal combatants and prisoners, a specific status for veterinarian personnel, the recognition of biodiversity hotspots as specifically protected zones, and the potential of enforcement mechanisms. The concluding chapter draws together novel interpretations and reform proposals for a better protection of animals in war.

A related question is whether the neglect of animals and the **dehumanisation** of humans in war are two sides of the same coin.

The plight of animal individuals and species inflicted on them by human activity is a global problem with detrimental repercussions for all humans and for the entire planet. **The book** "Animals in International Law", based on **Anne Peters'** 2019 Hague lecture, gives an overview of the most important international legal regimes which directly address animals. It concludes that public international law creates more harm than good for animals and suggests legal

strategies, including progressive treaty interpretation, treaty-making, **animal rights** (also in their interplay with **rights of nature**), and animal interest representation, for closing the animal welfare gap in international law. A body of global animal law needs to be developed, accompanied by critical global animal studies.

**SASKIA STUCKI** developed a tripartite legal theory of **animal rights as legal rights, animal rights as new human rights**, and the relationship between animal welfare law and animal rights as being analogous to wartime and peacetime regimes. The theory encompasses a **new conceptual distinction between simple and fundamental animal rights** and offers a novel “One Rights”-approach to interdependent human and animal rights, and a new concept of “**animal warfare law**”.



Anne Peters, “Tiere sind keine Sachen mehr – Was jetzt?“, in: Norbert Sachser/Niklas Kästner/Tobias Zimmermann (eds), **Das unterschätzte Tier** (Hamburg: Rowohlt Taschenbuch 2022), 184–202.



**WARTAN HOFSEPJAN**

Human Rights; Animal Ethics and Animal Rights; Democratic Theory and Theory of Democratic Representation



**DR. SASKIA STUCKI**

Animal Law; Animal Rights; Fundamental Rights for Animals; Animal legal Personhood; Theories of Rights; Human Rights Philosophy and Law; Climate and Environmental Law; Climate Mainstreaming; Greenstreaming; Defund Meat; Good Food Governance; One Health Governance



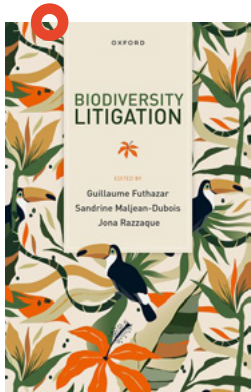
## Climate and Biodiversity

**Jannika Jahn's habilitation project** on “The Atmosphere as Global Commons” analyses the Paris Agreement temperature targets and the global and national CO<sub>2</sub> budgets as building blocks of the legal climate change mitigation regime that can be conceptualised as a network of international, European and domestic (German) rules. The project explores the tensions and synergies between democratic governance and science-based regulation and case-law. It conceptualises **fiduciary duties of states** to nature and future generations as a justification for robust laws on environmental and climate protection.

**Biodiversity** is in accelerated decline and urgent action is needed. In climate change litigation, judges have become key actors for linking internationally agreed goals with tangible national commitments to mitigate climate change. The **book**, co-edited by **GUILLAUME FUTHAZAR**, examines how this approach can lead to a similar trend in biodiversity governance.

**SASKIA STUCKI's habilitation project** seeks to conceptualise and operationalise “Transformative Greenstreaming” as a new legal approach for holistic environmental governance in the Anthropocene.

Edited by  
Guillaume Futhazar,  
Sandrine Maljean-Dubois,  
and Jona Razzaque,  
*Biodiversity Litigation*.  
Oxford University Press 2022.



DR. GUILLAUME  
FUTHAZAR

International Govern-  
ance; International  
Environmental Law;  
Interactions between  
Science and Law; Bio-  
logical Diversity



politics on the other side. The need to choose to err more to the one or the other comes with the responsibility of those **investigating the history of international law**.

**Humanity as a Vehicle: Raphael Schäfer's award-winning PhD thesis** provides a fresh analysis of the codification history of the European laws of war and the accompanying discourse in doctrine and practice of international law. It presents the field as an instrument of the Great Powers to legitimise their military campaigns while preserving the balance of power in Europe. The resulting book will be **published by Nomos** in 2024.

The **State of Nature**: combining intellectual history with current concerns, the book "**The State of Nature**", edited by **Mark Somos** and **Anne Peters**, brings together fourteen **essays** on the past, present, and possible future applications of the legal fiction known as the state of nature.

## HISTORICAL FOUNDATIONS OF INTERNATIONAL LAW

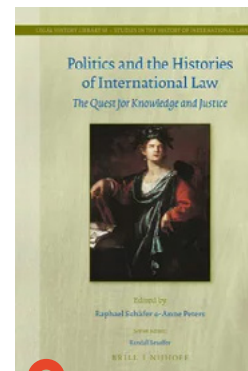
The inter-bellum was a formative period for the transformation of international law from the State-focused legal order of the 19<sup>th</sup> century to the humanised legal order. Novel international regimes on refugees, stateless, minorities, and mandate populations, diagonal arbitration, coupled with a rich reflection on international legal personhood, were genuine new contributions. A methodological renovation away from legal positivism to more sociological approaches allowed to (re-)unite the new technicalities with more principled considerations on the inviolability of the human person, and led to a practical scheme of international human rights protection, as Anne Peters argued in **chapter 7** of the co-edited book.

## Politics and the Histories of International Law

The interpretation of historical events potentially has the power to shape international relations, and therefore the fight over master narratives is especially fierce. At the same time, each and every legal scholar walks somewhere in between the unattainable ideal of "scholarly neutrality" on the one side, and partisan



**Mark Somos and Anne Peters (eds), *The State of Nature: Histories of an Idea* (Leiden: Brill 2022)**



**Raphael Schäfer and Anne Peters (eds), *Politics and the Histories of International Law: The Quest for Knowledge and Justice* (Brill 2021)**

## New Initiatives

The **Oxford Handbook** on Global Animal Law, edited by **Anne Peters, Kristen Stilt** and **Saskia Stucki** (to be published with Oxford University Press in 2025) intends to be a comprehensive reference work that authoritatively establishes the new field of Global Animal Law, maps it, identifies relevant legal issues, and provides a platform for further legal research.



**DR. RAPHAEL  
SCHÄFER**



International Humanitarian Law; History and Basics of International Law; Global History; National and International Judiciary; Comparative Public Law; Legal Theory; Law and Literature



The project “**Defund Meat: (Re)Defining Good Food Governance in the One Health Era**” (**Saskia Stucki** and **Anne Peters**) takes a critical look at the current food system through the prism of One Health and develops the novel concept of good food governance in line with public health, animal welfare, and environmental sustainability. The exploratory **conference** is scheduled for January 2025.

The next (and sixth) volume of the **Max Planck Trialogues** will involve three scholars with different perspectives on **war and climate law**. Climate change and the resulting draughts, storms, or floods often fuel armed conflict. War itself leaves a huge carbon footprint, and the obligations under climate law need to be adapted for post bellum arrangements. **Anne Peters** and **Christian Marxsen**, series editors.

In his **habilitation** project, **Robert Stendel** plans to analyse federalism in Germany focusing on those areas where the states (Länder) are competent to enact legislation. Based on case studies taken from various branches of German state law and drawing from the discourses in other federal legal systems, his project explores the viability (and pitfalls) of a comparative law approach to understanding German administrative law.

How (well) are women legally protected from disinformation and do they have a right not to be lied to? The **PhD project** by **ANNIKA KNAUER** will analyse international legal frameworks such as CEDAW and

national legal frameworks to determine States’ obligations in **protecting women from disinformation**.

Managing editor of **JHIL**, **Raphael Schäfer**, together with the book review editor Inge van Hulle have in 2023 created a **podcast** of 25 episodes for the 25<sup>th</sup> anniversary of JHIL which is being released since January 2024.

**Richard Dören** and **Robert Stendel** will examine the Zeitschrift für ausländisches öffentliches Recht und Völkerrecht during the Nazi period (1933–1945). The project is dedicated to better contextualising the journal within Nazi Germany’s international law scholarship by analysing the journal’s “content” as well as surviving primary sources, such as letters of the former editors.

Emotions normally contribute both to the motivation and to the control of human law-makers, law-appliers (including the judiciary), and law enforcers. Building on insights of neuro-law and behavioural approaches to law, an inter-disciplinary project, planned by **Anne Peters**, shall analyse select issues in **international law through the lens of emotions**. The overarching research agenda is to understand and explain the role of emotions (such as fear, anger, hate, resentment, shame, disgust) in the backlash against international law, and to harness the insights on positive emotions (such as love, compassion, empathy) for operationalising the international law of cooperation and solidarity.



**ANNIKA KNAUER**



General International Law; Artificial Intelligence (AI); International Human Rights Law



**PAULA ANNA  
JENNER**



German and French Constitutional Law; Rule of Law and Independence of Justice in Europe; International Peace and Security Law; Law of the Sea





 *Institute Life*





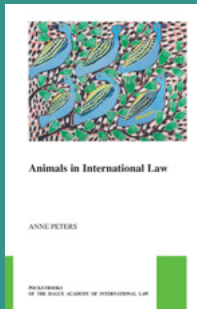
# PUBLICATION HIGHLIGHTS

## ANNE PETERS

\*

2021  
ANNE PETERS  
ANIMALS IN INTERNATIONAL LAW,

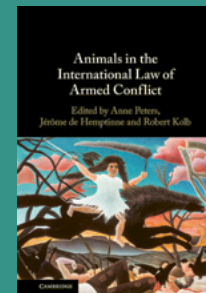
*The Pocket Books of The Hague Academy of International Law, Leiden: Brill, 641 pages.*



\*

2022  
ANNE PETERS, JÉRÔME DE  
HEMPTINNE, ROBERT KOLB  
ANIMALS IN THE INTERNATIONAL  
LAW OF ARMED CONFLICT,

*Cambridge: Cambridge University Press, 409 pages.*



43

\*

2021  
ANNE PETERS  
CONSTITUTIONAL THEORIES OF  
INTERNATIONAL ORGANISATIONS:  
BEYOND THE WEST.

*In: Chinese Journal of International Law 20 (4), p. 649–698.*



\*

2023  
ANNE PETERS, CHRISTIAN  
MARXSEN (AS SERIES EDITORS  
OF AND CONTRIBUTORS TO),  
DINO KRITSIOTIS, OLIVIER CORTEN,  
GREGORY H. FOX  
ARMED INTERVENTION AND  
CONSENT,

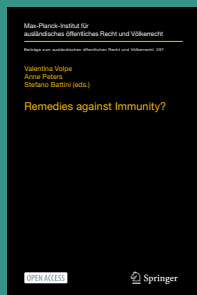
*Max Planck Trialogues on the Law of Peace and War, Vol. 4, Cambridge: Cambridge University Press, 340 pages.*



\*

2021  
VALENTINA VOLPE, ANNE PETERS,  
STEFANO BATTINI (EDS.)  
REMEDIES AGAINST IMMUNITY?  
RECONCILING INTERNATIONAL  
AND DOMESTIC LAW AFTER THE  
ITALIAN CONSTITUTIONAL COURT'S  
SENTENZA 238/2014,

*Heidelberg: Springer Verlag 2021, 425 pages.*



## 2.3

# MPIL RESEARCH GROUPS

## 2.3.1 EUROPEAN SECURITY REVISITED (ENSURE)

44



**DR. CAROLYN MOSER**



EU Law and Governance; Security and Defence in Europe; International Law and the Use of Force; Peace Operations (UN, EU); Franco-German Relations



### VISION AND TEAM

We live in times of profound geopolitical upheaval, characterised by a high degree of unpredictability and uncertainty, both in terms of events and knowledge. The Max Planck Research Group **ENSURE** (European Security Revisited) seeks to address this uncertainty through evidence-based and independent research. The independent W2-group, which consists of nine team members with different national backgrounds and academic training, is led by **DR. CAROLYN MOSER** and funded by the Max Planck Society (2022–2027).

ENSURE examines how European democracies can navigate the substantial changes they are experiencing in the area of security and defence, not least since the Russian aggression against Ukraine in 2022. Indicative of the shifting paradigm is, inter alia, the considerable increase in defence spending across Europe. Many countries, such as Denmark, Finland, and Sweden, have also fundamentally revised their security and defence policy priorities and strategies. Likewise, Germany is attempting to address many pressing defence issues under the “Zeitenwende” *topos*. These changes, significant in breadth and depth, are at ENSURE’s centre of attention. The research group unpacks ongoing fundamental adjustments in law and governance. It uses its expertise to develop suitable analytical concepts and provide academically grounded guidance on how to overcome contemporary challenges and adapt to the new realities, while sticking to core (constitutionally) enshrined values and principles.



### RESEARCH PROGRAMME

#### Key issue

In response to profound geopolitical changes – suffice it to mention the war in Ukraine, the fraying transatlantic security guarantees, the growing systemic rivalry with China, or the war in Gaza – the law and governance of European security and defence are being adapted, in some cases very extensively, to meet the new realities. Indeed, Europeans are leaving their peaceful comfort zone and entering the game of power politics – with all the legal, political, social, and industrial implications this move entails. Take, for instance, the recent coming of age of the European Union (EU): from being a normative power with some military activities, the bloc has scaled up its

armament production and advanced to Kyiv's biggest donor, ranking before the United States. Similarly, Sweden and Finland have abandoned their neutrality policies to join NATO. And the Danes decided in a referendum to join the EU's security and defence policy, ending an almost three-decade-old opt-out. Importantly, these changes are not temporary: they leave a long-lasting mark on the way European security and defence will unfold.

## Objective and relevance

ENSURE's purpose is to critically assess the significant law and governance adjustments to changing geopolitical realities, with a view to advancing academic knowledge and informing policy-making on the matter. The group has, hence, both an explicative-analytical and an interpretative-prescriptive goal: it traces the many (ongoing) changes to European security and defence and, based on this exploration, engages in a thorough governance study to (a) gauge whether the legal and political adjustments weaken or strengthen governance arrangements and to (b) flag necessary improvements.

## Research question and strands

In line with its goal, the urgent overarching question that ENSURE seeks to answer is: **What law and governance for European security in the new geopolitical era?** To respond to this question, the group's research spans four complementary, inter-connected strands: (1) democracy; (2) accountability; (3) diplomacy; and (4) capability. To ensure analytical consistency, research across these strands unfolds along three cross-cutting dimensions, namely (a) actors and instruments (who does what, why, and on which basis?), (b) regulatory modalities and policy tools (which means are employed and to which end?), and (c) governance implications (does this strengthen/weaken governance arrangements and is there room for improvement?).

# RESEARCH DESIGN

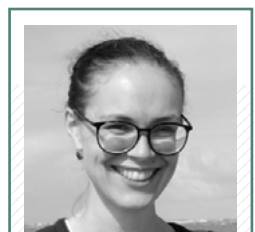
## Interdisciplinary approach

To conduct this extensive research endeavour into the governance credentials of European security and defence, ENSURE employs an interdisciplinary approach, **combining legal analysis with tools from other disciplines, in particular political science.** By tying together various strands of legal research – the group brings together scholars from different legal fields, namely EU law, international law, constitutional law, and criminal law – it offers a comprehensive and nuanced legal analysis of European security topics. In addition, ENSURE's projects reflect different political science approaches, including EU studies, security studies, and international relations.

With regard to methodology, doctrinal legal research is combined with empirical findings obtained through qualitative research methods (e.g. semi-structured interviews) and supplemented by case studies, thereby exploring the many shades and variations of the law and governance of European security and defence (law and adjudication; diplomatic practices; policy documents; etc.).

## Academic network and cooperation

ENSURE regularly welcomes guest researchers for short-term stays or to present their work in the monthly discussion series to complement ENSURE's research agenda. Further, ENSURE entertains a diverse international academic network, spanning from Kyiv to Washington, and from Helsinki to Manila. Indeed, the group collaborates with external researchers based in many different countries working in a diverse range of disciplines. This is made possible especially thanks to the rich academic backgrounds of its team members, who have studied and conducted research in Europe (Belgium, Estonia, Finland, France, Germany, Italy, Netherlands, Switzerland, UK), Asia (China, Japan, Philippines, Singapore), and North-America (USA). Importantly, this international embeddedness allows ENSURE researchers to also gain non-European perspectives on European security.



**FELICITAS BURST**   
Maritime Security;  
Law of the Sea



# RESEARCH THEMES AND PROJECTS

ENSURE's research unfolds under four connected strands. Under the heading "Ensure **democracy**", the group studies the role of democratic institutions (i. e. parliaments) in relation to European security and defence and the protection of fundamental rights in this highly politicised policy area. "Ensure **accountability**" focusses on legal accountability, both for activities conducted by European actors (e. g. state authorities; EU) and by external actors (e. g. war crimes committed in Ukraine). The soft-power dimension of the matter is unpacked under the heading "Ensure **diplomacy**", which studies the means and strategies used to promote and protect European values and interests. Finally, "Ensure **capability**" explores how defence and cyber capabilities are being fostered to face old and new security threats (e. g. territorial defence; hybrid threats).

In the following, selected projects (past, present and planned) will be presented per research theme to exemplify ENSURE's research portfolio. In practice, however, the projects often speak to more than one research strand.

## Ensure democracy

Democratic issues regarding security and defence have become all the more pressing in the face of heightened geopolitical tensions, which have led to greater European cooperation and integration a policy area traditionally led by the executive. What is the impact of the resurgence of conflict in Europe on parliamentary scrutiny, for example? Further, how can we ensure an effective and responsive security and defence policy that does not undermine the democratic and normative foundations of our political systems? ENSURE conducts research to address this issue at both the national and EU level.

- **DR. SOFIA VANDENBOSCH**, a specialist of constitutional law and the law of external relations in a comparative perspective, examines the role of national parliaments. Building on her **PhD thesis** (forthcoming as a book), which dealt with **national parliaments' control on foreign affairs** and questioned the longstanding "foreign affairs exceptionalism", she analysed with Prof. *Marc Verdussen* (UCLouvain) how Belgian constitutional law deals with matters of war and defence from a parliamentary perspective, with a special emphasis on controlling military missions abroad. This analysis will

be published in the *Annuaire international de justice constitutionnelle* (2024) together with country reports from more than 25 legal orders.

- With her expertise in EU law and governance, **DR. CAROLYN MOSER** studied in detail the **role of the European Parliament (EP) in relation to security and defence dossiers**. In an **in-depth study** commissioned by the EP, she collaborated with her colleague Prof. *Steven Blockmans* (CEPS) to assess the institution's formal and informal prerogatives regarding defence matters. In their 2022 study, they demonstrated that the EP inherently holds an ex ante and ex post scrutiny role in the EU's security and defence policy that goes beyond what is generally assumed in the literature and in practice. A substantially revised, enlarged and updated article version of the study was accepted for publication in the *ZaöRV*.

## Ensure accountability

The research theme "Ensure accountability" is concerned with the judicial review of expanding European security and defence activities. Viewed for decades as a matter of executive decision-making with minimal judicial involvement, we now witness a shift toward the judicial "normalisation" of European security and defence. In projects covering different legal fields and focussing on different judicial actors (CJEU, ECtHR, ICC, national constitutional courts, etc.), ENSURE unpacks how accountability patterns are evolving. It pays particular attention to (1) how judicial accountability unfolds in respect of different actors and instruments, and (2) whether and how (novel) regulatory modalities and operational realities potentially challenge established forms of legal accountability.

- As far as the CJEU and the review of EU security policies is concerned, **DR. CAROLYN MOSER** continued her work on the matter (e. g. *Accountability in EU Security and Defence*, OUP, 2020) and co-authored a **journal article** with Prof. *Berthold Rittberger* (LMU Munich) which was published in *ICON* in 2022. It deals with the **(de-) constitutionalisation of the EU's internal and external security policies** – namely Justice and Home Affairs, on the one hand, and the Common Foreign and Security Policy, on the other – via jurisprudence from Luxembourg. This joint publication project originated under the **Minerva Fast Track Fellowship** scheme (2019–2022, paused in 2021–2022 due to parental leave), under which she received funding by the Max Planck Society to explore the increasing law and policy overlap of security and migration issues in the EU.

- Since joining ENSURE in January 2024, **DR. KERTTULI LINGENFELTER** has analysed the **changing accountability landscape for international crimes in Europe**, with a special focus on the prosecution of crimes committed by Russians in the war on Ukraine. This is in line with her overall postdoctoral project, which deals with the aspects of European security related to crime and crime control, particularly extraterritorial jurisdiction and law enforcement cooperation. Her research on (novel) international criminal law actors, instruments, and operational as well as regulatory modalities has, so far, been accepted for publication in the **HJIL/ZaöRV** and on the *Verfassungsblog*. In the next project phase, her research on Ukraine will be combined with an analysis of states' and non-state actors' cooperation for prosecuting crimes committed in Syria and Libya. Kerttuli also examines ongoing efforts to establish a tribunal for prosecuting the Russian aggression. She takes inspiration from international relations and affect theory, which she has previously built on in her **PhD thesis** that she is transforming into a monograph
- **DR. SOFIA VANDENBOSCH**'s research adds an additional analytical layer to ENSURE's portfolio on accountability: in her post-doctoral project, she sets out to test the **hypothesis that the ECtHR has been strengthening judicial control at national level over external military operations abroad** by combining doctrinal legal research with insights from the sociology of law and comparative law. Since joining ENSURE in February 2024, Sofia has conducted research on the political question doctrine in the case-law of the Strasbourg and Luxembourg Courts, which has led to a preliminary comparative analysis that is due to be published on the *Verfassungsblog* in autumn 2024.



## Ensure diplomacy

In the context of tightening geopolitical conditions, Europeans also revisit their diplomatic toolkit with a view to promoting and protecting their values and interests. ENSURE's research covers both the "external" and the "internal" opportunities and challenges for the EU's international actorness.

- In his work, **DR. CHRISTIAN SCHULTHEISS** identifies innovative institutional solutions that stakeholders in Asia, Africa, Europe, and the Indo-Pacific develop to share, govern, and rule the ocean. In particular, he looks at the EU's normative and diplomatic clout in shaping these solutions. While the limitations of the EU's geopolitical footprint are frequently in the spotlight, much less is known about **how the Union contributes to building security architectures through technical assistance, capacity training, and the provision of new technologies**. Hence, in his post-doctoral project, he has explored since November 2022 how seemingly unassuming technical assistance (such as affordable satellite pictures, Artificial Intelligence, and information-sharing tools) affects the design and configuration of regional security organisations, coalition choices and, ultimately, the security architecture in the Indian Ocean Region. This project, which is at the intersection of diplomacy and capability, builds on Christian's previous research on the creative normative capabilities and diplomatic powers of the maritime community. For instance, in his forthcoming monograph entitled **Ocean Governance and Conflict in the East and South China Sea: Negotiating Natural Resources, Institutions and Power**, he presents the first comprehensive and theoretically rigorous account of three decades of bilateral and regional negotiations and dispute settlement efforts in the South China Sea (Amsterdam University Press, 2024).



*Christian Schultheiss, Ocean Governance and Conflict in the East and South China Sea: Negotiating Natural Resources, Institutions and Power (Amsterdam University Press 2024)*

- At the cross-roads of law and politics, **LUKAS MÄRTIN** (member of ENSURE in 2023) analysed EU sanctions and, more specifically, whether and how contested actors can be put on the EU Terror List. His research has led to a **journal article**, published in the *HJIL/ZaöRV*, on the potential terror listing of the Islamic Revolutionary Guard Corps and the intricate role of law in that context.



## Ensure capability

Ensuring capability has to do with both adapting institutions to changing conditions and providing the necessary tools for effective policy implementation.

- As part of her post-doctoral project, **DR. KERT-TULI LINGENFELTER** scrutinises **how different European actors create and use transnational and international procedures, partnerships, and institutions for prosecution and adjudication**. Next to its accountability facet, this research also carries an important capability dimension: the enlargement of the mandates of law enforcement agencies or the establishment of transnational databases for collecting evidence are important vectors for stimulating capacity-building (regardless of the governance credentials of these novelties).
- **DR. CHRISTIAN SCHULTHEISS** explores how EU capacity-building efforts in the Indo-Pacific regarding maritime security (re-) shape the existing security architecture. In particular, he continues his work on the **CRIMARIO project of the EU** – a project which he was asked to evaluate for the European Commission (2024).
- An important part of **DR. CAROLYN MOSER'S** research circles around **capability issues in a broad sense**. How does the geopolitical awakening of the EU affect European security and defence? How are the existing mandates of different national and European actors adjusted and multi-level competence arrangements revisited to allow for swift and effective action? The profound changes to Europe's security and defence landscape in the aftermath of the Russian invasion in Ukraine offers a perfect terrain for studying these questions. So far, she has produced several publications (journal articles, blogposts, contributions to edited volumes) on the law and governance repercussions of the Russian aggression against Ukraine, studying inter alia developments at the **European and EU level** (strategies, innovations in sanctions, deployments, financing streams and defence industrial projects) as well as at the national level (with a focus on the German **Zeitenwende** and its potential implications for **Franco-German relations** and **German constitutional law**).

## OUTPUT AND OUTREACH

ENSURE's planned deliverables comprise, alongside doctoral and post-doctoral qualification projects, various publications. As of now, ENSURE's **publication record** includes several journal articles, a number of contributions to edited volumes, and expert reports – all peer reviewed. Three peer-reviewed monographs as well as further journal articles, entries to encyclopaedias and legal commentaries are forthcoming. Additionally, team members have enriched the academic and wider public debate through blog posts and editorials, the publication of an online symposium being imminent.

Indeed, in autumn 2024, ENSURE will host an online symposium on the Verfassungsblog on the (legal) challenges of European security with contributions from junior scholars from Europe and beyond. This symposium builds on a **workshop** on the same topic held at Sciences Po in March 2024 in the context of **Dr. Carolyn Moser's visiting professorship at the Law School of Sciences Po**, where she held the Alfred Grosser Chair in the academic year 2023–2024 (funded by the Fritz-Thyssen Foundation). Already previously, there has been collaboration with the Verfassungsblog to disseminate findings. In early 2020, then under the Minerva Fast Track Fellowship scheme, Dr. Carolyn Moser edited an online **symposium on Frontex**, the EU's border control and coast guard agency, with contributions written by legal scholars, political scientists, and sociologists.

Furthermore, the group's members have given numerous invited talks at academic conferences in Germany and abroad and, in an effort to popularise legal science, have taken part in different events for the broader public. ENSURE also organises academic events (conferences, discussion series, semi-closed workshops with officials under the Chatham House rule, etc.) to foster academic exchange. In particular, the monthly **ENSURE discussion series** opens a conversation around the legal, political, societal and ethical dilemmas of (researching) European security in a spirit of collective learning and constructive dialogue.

What is more, several **EU institutions** (e.g. European Parliament, European Commission, European External Action Service) and national authorities (e.g. German Parliament, Belgian federal government, Philippines Foreign Office) have sought the expertise of ENSURE researchers, with some recommendations having been implemented. Moreover, the group's members receive **media coverage** in the (European and Asian) press, radio, and television, thereby contributing to the dissemination of knowledge and findings.



Workshop at Sciences Po  
Paris in April 2024

## OUTLOOK

Next to pursuing their individual and joint projects, the members of ENSURE also plan to organise an international conference that would bring together all four research strands. What is more, ENSURE will welcome **LAURIDS HEMPEL** as a PhD candidate, starting in August 2024, who has previously worked for the group as a research assistant.

Importantly, ENSURE studies a moving target – European security, including defence – which is both fascinating and challenging. At times, this topicality implies that research projects need to be revisited and adjusted to new realities to remain relevant. Part of the outlook is hence to pursue our research agenda and projects with a view to developing a comprehensive analytical and conceptual comprehension of the topic, while remaining open to accommodating relevant law and governance developments in our analysis.



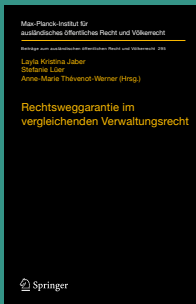
# PUBLICATION HIGHLIGHTS

CAROLYN MOSER



**2021**  
**CAROLYN MOSER**  
 LOIN DE L'UNION, LOIN DES JUGES?  
 – SUR LES VOIES DE RECOURS  
 JURIDICTIONNELLES DANS LE CADRE  
 DES ACTIVITÉS DE SÉCURITÉ ET DE  
 DÉFENSE EXTRATERRITORIALES DE  
 L'UNION EUROPÉENNE.

*In: Layla Kristina Jaber, Stefanie Lürer,  
 Anne-Marie Thévenot-Werner (eds.):  
 Rechtsweggarantie im vergleichenden  
 Verwaltungsrecht, Springer, p. 215–240.*



**2022**  
**CAROLYN MOSER,  
 STEVEN BLOCKMANS**  
 THE EXTENT OF THE EUROPEAN  
 PARLIAMENT'S COMPETENCE IN  
 COMMON SECURITY AND DEFENCE  
 POLICY.

*European Parliament study PE 702.559,  
 in-depth analysis commissioned by  
 the SEDE committee of the European  
 Parliament.*



51



**2022**  
**CAROLYN MOSER,  
 BERTHOLD RITTBERGER**  
 DER CJEU UND DIE EU-(DE-)  
 KONSTITUTIONALISIERUNG: EINE  
 RECHTSWISSENSCHAFTLICHE  
 REAKTION

*In: International Journal of  
 Constitutional Law 20 (3), p. 1038-1070.*



**2021**  
**ANGELO JR. GOLIA, LAURA HERING,  
 CAROLYN MOSER, TOM SPARKS**  
 CONSTITUTIONS AND CONTAGION  
 – EUROPEAN CONSTITUTIONAL  
 SYSTEMS AND THE COVID-19  
 PANDEMIC.

*In: Zeitschrift für ausländisches  
 öffentliches Recht und Völkerrecht, 81 (1),  
 p. 147–234.*



**2023**  
**CAROLYN MOSER**  
 DIE ZEITENWENDE: VIEL ZEIT,  
 WENIG WENDE?

*In: Zeitschrift für ausländisches  
 öffentliches Recht und Völkerrecht, 82 (4),  
 p. 741–768.*



## 2.3.2 HEISENBERG PROJECT: GROTIUS CENSUS BIBLIOGRAPHY

### VISION



**PROF. DR. MARK SOMOS**

Legal History; Human Rights; International Court of Justice



Thanks to the generous support of the Deutsche Forschungsgemeinschaft (SO 1807/1 and 1807/2), in October 2019 the Max Planck Institute for Comparative Public Law and International Law launched a six-year project to rewrite the history of international law by examining all surviving copies of the first nine editions of Grotius' seminal *De iure belli ac pacis* (IBP), widely regarded as the discipline's foundational text. The resulting census bibliography will be published by Oxford University Press in 2025, the 400<sup>th</sup> anniversary of IBP's first publication.

IBP has been widely regarded as the inception of modern international law ever since its first edition in 1625. The first generation of readers valued IBP for its lucid systematisation of legal doctrine and irenic potential. In the middle of the Thirty Years' War, one of the most traumatic conflicts in European history, IBP removed religion from international law, offering warring factions a common moral foundation, procedural standards, and rules for negotiation. In terms of disciplinary genealogy and professionalisation, the first chair in public international law was established to expound IBP and given to Samuel Pufendorf in Heidelberg. For centuries, commentaries, expositions and other forms of engagement with IBP dominated international law scholarship. A large portion of what we now regard as primary sources in international law was originally written as secondary literature on IBP; and all major international law scholars had engaged with IBP since its first appearance in 1625. At key moments, including the demise of the Holy Roman Empire, the fall of Napoleon and the end of both world wars, multinational projects were devoted to restarting international law by reissuing IBP with new commentaries.

What if we could find and systematise all the annotations that thousands of statesmen, diplomats, and international law scholars have left in their copies over the last 400 years? Our project's premise is that despite the enormous literature on IBP's reception and influence, we cannot understand its impact without uncovering the history of IBP as a physical object, with thousands of unpublished annotations arguing or agreeing with the text and updating and adapting its contents. Though much has been written about the iconic role of IBP, what has not been attempted is a census bibliography that locates and examines every surviving copy, and documents and analyses readers' annotations, and the copies' dissemination and movement over time throughout the world. When finished, the census will transform our understanding of the historical trajectories of international law.

### TEAM

**MARK SOMOS** is Heisenberg Professor at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg. He holds a PhD in Political Science from Harvard and a PhD in Law from Leiden, taught at Sussex, Tufts, Harvard, and Yale, published five books and seventy articles, and serves as co-editor-in-chief of *Grotiana* and the *History of European Political and Constitutional Thought*. Mark Somos served as Counsel in three disputes in front of the International Court of Justice; has won, on his clients' behalf, numerous human rights complaints at UN Special Procedures; and serves as *pro bono* Special Counsel at the NGO Just Access, focusing on strategic litigation on behalf of victims of human rights abuses.

**MATTHEW CLEARY** is Senior Research Fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg, as well as currently an Adjunct Lecturer in the Law Faculty at the Ruprecht Karl University of Heidelberg. He holds a PhD in Law from the University of Edinburgh, as well as masters and undergraduate degrees in history from Canadian universities.

**EDWARD JONES CORREDERA** is Senior Research Fellow at the Max Planck Institute for Comparative Public Law and International Law and a Lecturer at the UNED, Madrid. He is the author of *The Diplomatic Enlightenment: Spain, Europe, and the Age of Speculation*.

**PABLO DUFOUR** is a research assistant at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg and a team member of the Grotius Census Project. He earned his BA in Political Sciences at the University of Heidelberg and SciencesPo Paris and is set to begin an MPhil in International Relations at the LSE.

**EMANUELE SALERNO** is Senior Research Fellow at the Max Planck Institute for Comparative Public Law and International Law in Heidelberg. He holds a PhD in Political Science from the University of Pisa and his current research is centred on theoretical and practical tools for supporting international peace and security in a historical comparative framework. He contributed to the Italian research units of the international projects *Natural Law 1625–1850* and *Serica* and published on the legal-political culture of the ruling class and cases of pragmatism of the law of nature and nations in eighteenth-century Tuscany.

## Research Programme: SWOT, Goals and Priorities

The project is supported by two grants, which had to be renewed half-way based on progress. We have thus received eight external blind peer reviews from the DFG for the project as a whole. In addition, academics contacted by various publishers to review twelve articles that directly prefigure the book, as well as OUP's two blind peer reviewers, and the six preeminent experts invited to our authors' workshop in November 2023, have all provided written evaluations. The resulting over forty independent assessments of our work, received at steady intervals throughout four and a half years, came to the same conclusion: this project is world-leading in several fields, especially international legal history and book history, but also historiography, reception studies, and legal theory.

The weaknesses are related to the pandemic, which made hiring and retaining staff, as well as field inspections of copies, difficult. Two postdoctoral researchers joined on 1 October 2020 but due to Covid restrictions the third was unable to set up administrative appointments or arrange for travel. After months of difficulties, the third postdoctorate withdrew from the position. One of the postdoctorates who started work on 1 October 2020 left after 5 months to return to her family during the pan-

demic. After repeating the hiring process as soon as Covid subsided, the team reached its full complement of three postdoctorates.

The second difficulty concerned travel to inspect copies. We were able to examine 212 copies in 10 countries during the pandemic (occasionally caught in limbo, unable to return, as travel restrictions intensified), but we could not collect the critical mass of annotations needed to train natural language processing and transcription algorithms to recognise the handwriting of marginalia. Without that machine learning preparatory work, the planned transcription platform and teaching tools could not be created. We adjusted to the pandemic by frontloading publications. This enabled us to honour and exceed the commitments made in our DFG application; but the crowdsourced transcription platform, the teaching tools, and the training of handwriting-recognition algorithms could not be pursued without initial data collection, and turned into legacy projects.

The opportunities generated by this project are considerable. The census, as well as the adventurous process of researching it, could command public interest. The legacy projects detailed below can turn into free-standing academic projects, as well. Finally, there are expected and unexpected uses that future researchers will find for our work: whether in pursuit of specific figures – lawyers, theologians, politicians – whose IBP annotations shed new light on their work, or book historians building on the accumulation of four global census bibliographies to identify trends in collecting and the creation of research institutions, the possibilities are breathtaking, as indeed the exponentially rising impact of the previous three census bibliographies already indicate.

## METHODS

Our approach to the material conditions of knowledge production is relatively new: only three comprehensive census bibliography projects have been completed. Gingerich's census of Copernicus' 1543 *De revolutionibus* revealed that, though one could not tell from their publications, leading Protestant theologians formed study groups around the work that replaced the Ptolemaic system with a heliocentric view of the universe.<sup>1</sup> The census of Shakespeare First Folios (1623) by Rasmussen and West raised the number of known copies by almost 50%, and enriched our knowledge of book production, promotion, and trade.<sup>2</sup> The third census, co-authored by Mark Somos, focused on Vesalius' *De humani*

<sup>1</sup> Owen Gingerich, *An Annotated Census of Copernicus' De revolutionibus* (Brill, 2002).

<sup>2</sup> Eric Rasmussen and Anthony J. West, *The Shakespeare First Folios: A Descriptive Catalogue* (Palgrave Macmillan, 2012).



**DR. EDWARD JONES CORREDERA**

Intellectual History; Economic History; History of Economic Thought; Legal History; Latin American History



**PABLO DUFOUR**

Political Science; International Relations



**DR. EMANUELE SALERNO**

History of Political and Legal International Thought; Intellectual History; History of Universities



*corporis fabrica*, which overturned thirteen centuries of Galenic orthodoxy and turned anatomy into a visual and empirical science.<sup>3</sup> This census showed that contrary to scholarship, the first generation of readers did not understand the visual representation of anatomy that seems intuitive to us now; that they paid more attention to theology than anatomy, searching for angels and the soul in woodcuts of dissected brains; and that even though the book was put on the papal Index, practical censorship was almost non-existent, as the need for better medical treatment overrode doctrinal objections.

Each of these censuses galvanised and transformed their field, but they remain rare. Finding every copy of a book poses complex challenges, from ploughing through offline and online library catalogues and compiling questionnaires for librarians in numerous languages before systematising their responses, through collecting, transcribing, and adding metadata to images of tens of thousands of annotations, personalised bindings and provenance marks, to tracing the movement of copies across the centuries, often between private and public owners, and despite major disruptions such as wars, nationalisation, and privatisation.

Our census will reach and surpass existing standards of the genre. To date we have located over 1,000 surviving copies of IBP, personally examined more than 700 copies despite the challenges of the pandemic, and have published numerous articles and book chapters that had passed the academic standards of editorial and peer reviews, and serve as preliminary drafts of limited aspects of the eventual book.

To further ensure the highest possible scientific standards, in November 2023 we convened an authors' workshop with six preeminent scholars, three of whom sent detailed comments on the entire manuscript, and three of whom joined us in person in Heidelberg for a three-day discussion of the entire manuscript. We carefully incorporated the treasury of those comments, and submitted the manuscript to OUP on 6 December 2023 for review.

## RESULTS

Our metric of success is publications. The core pledge of the applications to the DFG was 1 book (the census itself) and 21 peer-reviewed scholarly papers. To date, the project has produced 3 books, 4 journal special issues and 51 scholarly papers, considerably exceeding its promise.

<sup>3</sup> Daniel Margocsy, Mark Somos and Stephen Joffe, *The Fabrica of Andreas Vesalius: A Worldwide Descriptive Census, Ownership, and Annotations of the 1543 and 1555 Editions* (Brill, 2018).

We did our best to make our results openly accessible. First, Mark Somos published a peer-reviewed open-access research note that announced the project; this proved useful in contacting libraries and private collectors, both to explain the project and demonstrate its credentials. As subsequent research notes were published in leading journals, we reissued and often updated these notes for our Institute's open-access SSRN series as soon as copyright allowed. We also worked closely with the Max Planck Society's diverse initiatives to support open-access scholarship, seconding two of our postdoctorates to serve as Open Access Ambassadors for the Society.

Public engagement has been another priority, with press interviews, and social media outreach.

## External lectures, conference contributions

Since the project began, the Team has given 71 presentations in 12 countries, including 36 by the PI. 2025 will see a major international conference at The Hague to celebrate the 400<sup>th</sup> anniversary of IBP's first publication, featuring over 100 speakers and a special book presentation of our Census.

## Memberships in professional societies

The Team holds membership in 11 professional societies, including the American Society for Legal History, the International Bar Association, the Royal Historical Society, and the Selden Society.

## NEW INITIATIVES

In this final stage of our project, we are expanding the evidentiary basis of our work while finalising the writing. New data have come in partly thanks to our preliminary studies. We also collected the contact details of ca. 4,500 research institutions from the World of Learning database, and individually asked each whether they hold IBP editions within our range. All online catalogues were exhausted before the studies were published - yet our direct approach has yielded hundreds of new findings, copies missing from online catalogues. We are currently re-sending

questionnaires in their local languages to institutions that have not yet replied, in order to improve response rate.

Our continued travels and personal examination of copies has been another source of new data for well over 150 copies. Moreover, professional academic and bibliographical associations have kindly disseminated our questionnaire concerning copies, with terrific response.

We are also repeating the survey of online catalogues that our project started with. As scholars have noted, research institutes are still in the process of entering their collections into online catalogues: even Oxbridge colleges have at best a 60% completion rate. As their work continues, we are revisiting the entire universe of catalogues for one final sweep. In sum, thanks to these new workstreams (data in response to the studies; questionnaires directly to institutions; professional associations; personal inspections; repeated sweep of all online catalogues), the empirical foundation of the manuscript will vastly outstrip the preliminary studies.

The improved empirical foundation has allowed us to substantially revise and expand the analytical section of the book, as well. We learned a great deal more about early modern aristocrats' and imperial administrators' use of IBP; Grotius' own dissemination methods (thanks partly to some groundbreaking discoveries of copies he himself dedicated and sent around); the Jesuits' use of IBP in teaching; the impact of censorship; and so forth.

## FUTURE PLANNING

We are discussing with colleagues worldwide how to make best use of our forthcoming census. One obvious step will be sharing our results with the Universal Short Title Catalogue, the most comprehensive online catalogue of early modern works.

There is the question of the hundreds of thousands of images we collected. A future team could negotiate with each private and institutional owner to make the images publicly available, e.g. to support crowd-sourced transcription and teaching tools. While every annotation in every copy probably won't become publicly available, one could develop a tiered system for the owners, ranging from restricted access for researchers, through Creative Commons licenses that permit sharing but not manipulating nor profiting from images, all the way to full open access. Owners could choose the agreement they are comfortable with. As other large-scale public digitisation projects have shown, the impact of releasing

a few hundred thousand images of IBP annotations to the public would be considerable: in addition to supporting generations of researchers, the IBP database's support for the evolution of handwriting recognition software alone would revolutionise the field, given that the database of legal history images we have created is probably the largest in the world.

Another direction would be to develop a public platform to allow the transcription and translation of annotations. In under two years, volunteers at a UK project transcribed, edited, and cross-verified over 4,000 full pages of Jeremy Bentham's manuscripts. Transcribing, translating, and verifying marginalia (not full pages) in the 1,000 IBP copies we documented is a feasible proposition, especially since it could build on the UK team's outstanding work.

The IBP Census can enable teaching tools, partly modeled on The Bodin Project that professors of history and law use to train their students. Such a toolkit could support handwriting recognition, analysis, metatagging, cross-linking legal and other texts invoked in IBP annotations, tracing the relationship between IBP owners' annotations and their diplomatic papers, forensic arguments and publications; and similar training objectives. Imagine what future users of our Census could do, for instance to systematically collate lawyers' and politicians' private annotations in their IBP copies with their public work, as we have done for a range of ad hoc figures across history such as the imperial ambassador, privy councillor and government minister Johann Christian von Boineburg (1622-1672), the US abolitionist Wendell Phillips (1811-1884), or the Austrian jurist and Minister-President Heinrich Lammasch (1853-1920).

For descriptive bibliographers, a promising future direction might be accessing our hundreds of thousands of images of IBP copies and adding a new layer of printing analysis by connecting them to the ongoing effort to catalogue and classify the millions of watermarks. Our project also published a groundbreaking paper on quantifying the deterioration of wood blocks and metal type in order to sequence individual copies within a print run.



# PUBLICATION HIGHLIGHTS

MARK SOMOS

\*

2021  
**MARK SOMOS, EDWARD JONES CORREDERA, GEORGE GALLWEY SIR DANIEL DUN'S MARE LIBERUM AND THE 1613 ANGLO-DUTCH CONFERENCE.**

*In: Zeitschrift für ausländisches öffentliches Recht und Völkerrecht, 81 (2), p. 479–496.*



\*

2021  
**MARK SOMOS VIRTUE.**

*In: Randall Lesaffer and Janne Nijman, The Cambridge Companion to Hugo Grotius, p. 91-117.*



\*

2022  
**EDWARD JONES CORREDERA, FRANCESCA IURLARO, LARA MUSCHEL, MARK SOMOS HUGO GROTIUS'S DE IURE BELLI AC PACIS: A REPORT ON THE WORLDWIDE CENSUS OF THE FIRST EDITION (1625).**

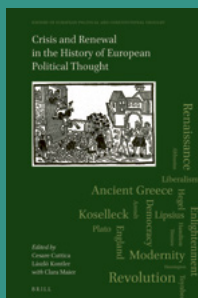
*In: Grotiana, 43 (1), p. 208–235.*



\*

2021  
**MARK SOMOS HOUSES WITHOUT CITIES.**

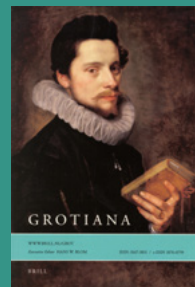
*In: Cesare Cuttica, László Kontler: Crisis and renewal in the history of European political thought, p. 195–213.*



\*

2023  
**MATTHEW CLEARY, PABLO NICOLAS DUFOUR, EMANUELE SALERNO, MARK SOMOS GROTIAN MOMENTS AND APPEALS TO AUTHORITY IN LAW AND HISTORY.**

*In: Grotiana, 44 (1), p. 65–93.*





PD DR. JANNE  
MENDE



Global Governance;  
Non-state Actors;  
International Organisations;  
Norms Research;  
Human Rights; Qualitative  
Research Methods



## 2.3.3 THE MULTIPLICATION OF AUTHORITIES IN GLOBAL GOVERNANCE INSTITUTIONS (MAGGI)

### VISION

The Max Planck Research Group on “The Multiplication of Authorities in Global Governance Institutions” (MAGGI) is an independent W2 Research Group funded by the Max Planck Society for the period between 2020–2025, headed by **PD DR JANNE MENDE**. **MAGGI** studies the plurality of actors that partake in and shape global governance – and thus matters of public interest. It thereby engages with the development that it is no longer only states who are legitimate and accountable actors governing matters of public interests, but – due to different processes such as globalisation and privatisation – a variety of private actors as well as actors that cannot neatly be captured as purely public or private in the first place. The agency, governance capabilities, and powers of these actors draw on (or strive to draw on) various sources of legitimacy, such that they do not simply wield power, but authority in global governance. Against this background, MAGGI studies the different forms of authority that these actors wield, in order to develop an empirically based conceptual pattern that is able to capture the plurality of governance authority beyond the usual public-private divide.

### RESEARCH PROGRAMME, GOALS AND PRIORITIES

MAGGI focuses on the authority of state, intergovernmental and non-state actors in global governance, especially in the UN and the EU as pivotal hubs of global governance. Asking which actors wield which form of authority, the Research Group seeks to identify different forms of governance authority between and beyond public and private roles, in order to address the challenges for democracy on a global level.

MAGGI thus has a conceptual and an empirical focus. The conceptual focus lies on a structured operationalisation of authority that is broad enough to resonate with different existing approaches and narrow enough so as to provide a more nuanced understanding that also builds the basis for empirical analysis. Against this background, MAGGI has developed a definition of governance authority as governance power that is or strives to be legitimised by a reference to public interests and that has effects on public interests (even if this link is not explicitated in legitimisation practices). One major contribution of MAGGI therefore lies in assessing these three elements in global governance: power, legitimacy (including practices of de/legitimation), and public interest (showing how public interests serves as a common yet underdeveloped reference point for the normative aspirations of global governance and the legitimisation of global governors). These are closely interconnected with empirical case studies of a variety of global governance actors. These case studies will contribute to an overall framing of governance authority that is able to cover its different forms and aspects in global governance, thereby going beyond the usual distinction between public authority held by states or international organisations, and private authority wielded by non-state actors.



DR. FRANK  
RICHARD GEORGI



Human Rights; Business  
and Capitalism;  
Activism; Peace and  
Conflict; Democracy and  
Popular Politics



DR. ANNELOES  
HOFF



Business and Human  
Rights; Political and  
Legal Anthropology;  
Colombia



## RESEARCH CONCEPT, INCLUDING METHODS AND RESULTS

The triadic definition of governance authority (power, legitimacy, public interests) builds the basis for individual case studies which, in turn, will contribute to refining and further developing a nuanced pattern of governance authorities. These case studies cover a variety of actors in a variety of issue areas as follows:

### Authority and Public Interests in Sustainability Governance

**JANNE MENDE,**  
PROJECT LEADER

The global governance of sustainability, and the globally applied UN Sustainable Development Goals (SDGs) in particular, are particularly marked by the plurality of global governors, putting emphasis on non-state actors alongside states and the UN. This deeply challenges conventional sources and loci of governance authority. Drawing on a qualitative study of how the UN treats, organises, and governs the plural actors in sustainability governance, focusing on the implementation of the SDGs, this project studies, whether and how the proliferation of sustainability governors entails a diffusion of governance authority amongst these actors and which forms of authority it generates. The study zooms in on the role of public interests for governance authority, drawing on the widely held perception of sustainability (and the SDGs) as denominator for the public interest, which the literature usually juxtaposes with actors' self-interest (i.e. their private interests). In contrast, this project suggests that both, public and private interests, are pivotal for the construction of governance authority, not least as private interests

also affect what counts as public interest in the first place. The project makes two contributions. First, it establishes how public interests as an element of governance authority are marked by private interests – not in a dichotomous or mutually exclusive way, but consisting of both. Second, it sheds light on how the constellation between private and public interests affects the governors' power and legitimacy, thereby shaping different forms of governance authority.

### The Constitution of Authority through Paradiplomacy in Global Governance

**GORDON FRIEDRICHS,**  
POSTDOCTORAL RESEARCHER

This research project delves into the intricate dynamics of transnational sub-state entities as norm entrepreneurs in global governance. The backdrop of globalisation, international crises, and complex interdependencies has elevated the role of sub-sovereign actors, particularly sub-state entities, in shaping international issue areas such as migration, public health, climate change, and economic development. Sub-state entities have increasingly engaged in global governance through paradiplomacy, playing a pivotal role in connecting private and public actors across national borders. This research aims to explore how sub-state entities gain authority in global governance institutions and act as norm entrepreneurs, promoting the establishment, diffusion, and institutionalisation of global norms. The project challenges the traditional view of sub-state entities as knowledge brokers and facilitators, proposing that their paradiplomacy serves as a platform for norm entrepreneurship in the third space between private and public actors. The research focuses on three key areas of global governance: climate change, social injustice and illiberalism, and global public health governance. Within the climate change domain, the project examines sub-state entities like the Climate Alliance and sub-national entities participating in global efforts. In the context of social injustice and illiberalism, attention is given to sub-state entities involved in progressive alliances and networks combating nationalistic populism. The third area explores sub-state entities engaged in global public health governance, such as sub-national entities collaborating through the WHO Global City Network and the WHO European Healthy Cities Network. By scrutinising the paradiplomatic activities of sub-state entities, this research sheds light on the power, legitimacy, and connection to the public interest of these influential networks in the evolving landscape of global governance.



**DR. GORDON FRIEDRICHS**



International Relations;  
Foreign Policy Analysis;  
Global Governance;  
Polarisation & Populism;  
U. S. Foreign & Security  
Policy; East Asia & Asia  
Pacific





MARIE LOHRUM



European Union Politics; Democracy Theory; Extremism and the Influence of Non-state Governance Actors in Decision-making Processes



## The Authority of Interest Groups in European Union Decision-Making

MARIE LOHRUM,  
PHD STUDENT

Global Governance has seen a proliferation of actors operating in a multipolar global structure. One arena of global governance is the European Union, a system sui-generis in which integration has reached a level surpassing intergovernmental decision-making by increasing integration over time. In doing so, the EU has become more than just a mere arena of global governance and reached a point of becoming an independent political system. The increasing governance capacities and relevance of the European Union as a political system have triggered the proliferation of interests represented in the EU. Accordingly, interest groups in Brussels have professionalised and proliferated over the last decades. While there are many arguments to be made why interest representation is necessary in a complex multilevel governance structure such as the EU, little is known about underlying structures in the interplay between interest groups and decision-makers. Making use of the MAGGI triadic concept of authority (power, legitimacy, public interest), the research project aims to investigate the authority of interest groups in European Union decision-making processes. Invoking questions of interest groups' power, legitimacy and (to a lesser extent) reference to public interest, the research project aims to address underlying structures in the relationships by interest groups and decision-makers in Brussels. The research is conducted making use of semi-structured qualitative interviews as well as (possibly) qualitative content analysis of materials published by interest groups. Ultimately, the research project aims to answer the question of whether interest groups in the European Union have authority, and, if so, how this authority looks like. In doing so, the project is contributing to the literature of EU studies and the MAGGI Research Group in a threefold way: 1) it brings a new, possibly fruitful concept to EU studies that widens the lens of interest group studies to go beyond actions and address underlying structures, 2) it researches private actors aiming to influence public decision-making and thereby contributes to studying the necessary extension of the public-private divide in global governance, 3) it examines the MAGGI concept of authority and thereby lends itself as a first test of the concept.

## The Authority of Transnational Municipal Networks in Global Governance

FUMIE NAKAMURA,  
PHD STUDENT

The emergence and proliferation of global governance gave rise to a plethora of non-state actors whose operation, to varying degrees, shape the discourse within international political frameworks and mechanisms. Among these non-state actors, formalised organisations of local governments often referred to as transnational municipal networks (TMNs) have been increasing their presence in recent years in academic literature and on the ground. Why such networks grew in numbers and scale in the past decades are related to the paradoxical external environment in which TMNs operate. On the one hand, the existing international legal and political system does not officially recognise local governments or their networks. For instance, they are not the formal signatories of international agreements and treaties and are not invited to the intergovernmental negotiations even when the negotiations involve urban issues. On the other hand, local governments bear the expectation to lead the implementation of climate action and global goals and targets. Applying the MAGGI framework of authority, TMNs appear to practice "governance authority"; they participate increasingly in global governance with the claim that local governments are closest to people. However, it remains unclear whether their participation indicates any type of power and whether that power qualifies as an authority (e.g., is the deference of other actors to them observable?). Against this backdrop, this project aims to better understand what kind of actor TMNs are and capture their more nuanced authority relations through the gaze of TMN stakeholders, such as the secretariat members, mayors, local administration officials, as well as private funding partners. Furthermore, the rapidly evolving topic of "climate migration" is applied to help contextualise the international landscape, and the empirical analysis will draw on both secondary sources (existing reports and studies) as well as primary sources derived from semi-structured interviews. The findings of this project will contribute to the growing literature of city diplomacy, climate migration, and of authority while also providing strategies for TMN stakeholders.



FUMIE NAKAMURA



Transnational Governance; Governance of Global Commons; Cross-border Policy Challenges; Local Governments as Global Governance Actors; Climate Migration



## Religious Authority and War in Global Governance Institutions

**KATHARINA MCLARREN,  
POSTDOCTORAL RESEARCHER**

This project explores religious authority as a distinct form of authority in Global Governance Institutions (GGI). The project is based on the two assumptions that wars have profound consequences both materially (world food markets prices; refugee flows), as well as ideationally (breaches of international law) and that religious actors provide support in times of war both materially (shelter; financial aid) as well as ideationally (hope; moral guidelines; legitimacy). But beyond providing such support or guidance, religious actors also participate in the global discourse on war, as the ongoing Ukraine War indicates. These actors enjoy recognition as legitimate actors in GGI and can also possess the ability to regulate; the wish to shape norms and laws; or even have a clear political will in such institutions. Following the MAGGI understanding of authority, studying religious actors raises additional aspects to be considered when grasping authority in GGI. Religious actors differ from states and other non-state actors for example when considering who their publics are; the levels of governance on which they demonstrate power; but also the public interests in question. The project explores religious authority by examining three cases of war which cover different historical contexts and continents: the Vietnam War (1955–1975), the Rwandan Civil War (1990–1994), and the Russian War in Ukraine (since 2022, with the annexation of Crimea since 2014). Employing an extended qualitative content analysis and a focused, structured comparison, the research examines how religions participate in global governance during wars. The case studies aim to identify participating religions and elucidate their impact on global governance. Additionally, the research seeks to understand how religions matter in global governance during wars, examining the sources of their authority and how it transcends different levels of governance.



**DR. KATHARINA  
MCLARREN** 

Religion in International Politics; Religion in Foreign Policy Analysis and International Relations Theories; Interfaith Dialogue and Diplomacy; Tunisia and the MENA Region



## The Authority of Standards in Sustainable Forest Governance

**JULIA DRUBEL,**  
POSTDOCTORAL RESEARCHER



**DR. JULIA DRUBEL**   
International Relations  
Critical Norm Research  
on the Global Political  
Economy of Forced  
Labour and Modern  
Slavery; Transnational  
Labour Markets and  
Networked Global Value  
Chains; Global Social  
Governance and Interna-  
tional Organisations



The project focuses on sustainability as a standard of governance, its effectiveness and authority, with an emphasis on the regulation of global value chains (GVCs) by the EU and its effects on producing regions. The goal is to understand whether and to what extent sustainability as a standard is integrated into the EU's forest governance. How and under what conditions are different sustainability dimensions realised along GVCs for (non)woody biomass and consumer goods? The project focuses on the realisation of socio-ecological sustainability, namely forest protection and decent work. These questions are based on two recent developments. First, the increased demand for wood for energetic or material usage. Second, the risk of perpetuating unacceptable forms of work in complex GVCs. The project aims at a systematisation of the EU's forest governance, including its legality verification regime, GVC-regulations and forest strategies. It reconstructs sustainability as a standard of governance by analysing which sustainability dimensions are considered to what extent by the EU. The project is mainly interested in ideational effects on these policies, whether specific bodies of knowledge gain perpetuating power and whether they prescribe specific forms of authority. The project, hence, studies the substantial formulation and justification of authority, zooming in on the Co-regulation of forest-GVCs with sustainability certification schemes, like the Forest Stewardship Council (FSC). The project draws on qualitative research approaches, including qualitative content analysis, process tracing of ideational effects, and linguistic approaches and critical discourse analysis (systemic functional linguistics, modality). The corpus of documents that are to be studied includes the respective legal texts, protocols and minutes of the EU debates on its forest strategies with a special emphasis on the politics of forest governance, the COM-Documents and position papers by the EU as well as the EU's online public consultations. The FSC generic standards and regional/national forest sustainability standards will be analysed. Furthermore, expert interviews will be conducted with a view to the EU, the FSC and the producing country Canada. Ultimately, the project engages in a critical discussion of who actually sets those sustainability standards, whose effective realisation is to be measured to evaluate forest governance.

## The Constitution of Authority in Migration Governance

**RUJI AUETHAVORNPIPAT,**  
POSTDOCTORAL RESEARCHER

This project examines authority in migration governance, particularly in the European Union (EU). Focusing on the EU's external borders, it investigates the sources and social processes involved in the formation of authority which creates norms and policies that undesirably affect migrants and refugees. In doing so, this project reveals the implications that such authority may have on the protection of the fundamental rights of migrants and refugees in Europe.



**DR. RUJI AUETHAVORNPIPAT**   
Norm Contestation;  
Migration Governance;  
Migrant Protection;  
Human Trafficking;  
Social Movement



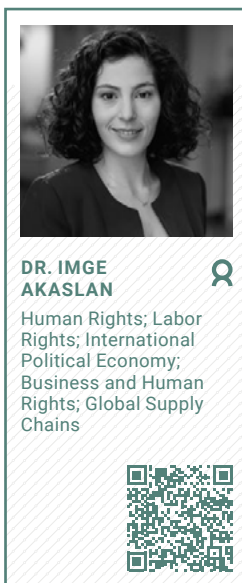
## SCIENTIFIC HIGHLIGHTS

Since its inception, the Research Group holds a monthly colloquium that is also open for other members of the MPIL. It provides room for discussing and receiving feedback on draft papers, supplemented by a deepened discussion of methodological questions. In addition, by discussing published research and inviting established scholars such as Antje Wiener, Jorg Kustermans, Wayne Sandholtz, Matthias Hofferberth et al., the colloquium provides insights in and intense engagement with further perspectives on the topics relevant for MAGGI.

The Research Group has established an international network of associated external scholars from the disciplines of international relations and international law. They participate in the regular MAGGI colloquium and enrich the discussion with their interdisciplinary and international perspectives and by presenting their research.

MAGGI further benefits from close exchange with an **additional research project** headed by Janne Mende, funded by the German Research Foundation (DFG), focusing on businesses as global governors in the human rights regime as one of the most pivotal fields of public interests and fundamental norms.

Publications on the MAGGI topics include several papers in international journals, cooperations and co-authored papers with external scholars, as well as a special issue on the notion of publics in global governance, all of which are accessible open access.



**DR. IMGE AKASLAN**

Human Rights; Labor Rights; International Political Economy; Business and Human Rights; Global Supply Chains

## NEW INITIATIVES AND FUTURE PLANNING

The Research Group plans to publish an edited volume on “The Multiplication of Global Governance Authority: Contestation, In/formalisation, and Constellations”, in which internal and external scholars bring together and present their research on the authority of different governance actors, assessed through the analytical lens of contestation, in/formalisation, or actor constellations. As a milestone for the edited volume, MAGGI organised a workshop in July 2024 at which the individual chapters were discussed and further aligned around the common theme. In the final publication planned for 2025, the individual case studies by MAGGI members as well as external scholars will contribute to a common analytical frame that captures and delineates the plurality of governance authorities.



# PUBLICATION HIGHLIGHTS

JANNE MENDE

\*  
2021  
JANNE MENDE  
DER UNIVERSALISMUS DER  
MENSCHENRECHTE,  
Stuttgart: utb/UVK.



\*  
2022  
JANNE MENDE  
NORM CONVERGENCE AND  
COLLISION IN REGIME OVERLAPS.  
BUSINESS AND HUMAN RIGHTS IN  
THE UN AND THE EU.

In: *Globalizations* 19 (5), p. 725–740.



\*  
2023  
JANNE MENDE  
PUBLIC INTERESTS AND THE  
LEGITIMATION OF GLOBAL  
GOVERNANCE ACTORS.

In: *Politics & Governance*, 11 (3),  
p. 109–119.



\*  
2021  
JANNE MENDE  
THE CONTESTATION AND  
CONSTRUCTION OF GLOBAL  
GOVERNANCE AUTHORITIES. A  
STUDY FROM THE GLOBAL BUSINESS  
AND HUMAN RIGHTS REGIME.

In: *Global Constitutionalism* 10 (3),  
p. 377–399.



\*  
2023  
JANNE MENDE  
BUSINESS AUTHORITY IN GLOBAL  
GOVERNANCE: COMPANIES BEYOND  
PUBLIC AND PRIVATE ROLES.

In: *Journal of International Political  
Theory*, 19 (2), p. 200–220.





DR. CHRISTIAN  
MARXSEN

Public Law; Public International and European Union Law; Philosophy of Law



## 2.3.4 SHADES OF ILLEGALITY IN INTERNATIONAL PEACE AND SECURITY LAW (SHADES)

The SHADES-project is established as a Max Planck Research Group with a funding period from 2018–2022. Its funding was extended for a period of two years until December 2024. The research group is led by Christian Marxsen.

where does it, on the other hand, only offer a language for the articulation of political interests? When are illegal actions even a legitimate tool for shaping and amending existing legal rules and what are the concrete dangers that different types of illegality pose?

The interdisciplinary research project addresses illegality in the context of international peace and security law from multiple angles, conducting classical legal (doctrinal) analysis with a particular focus on the sources of international law, including the research of case studies, but it employs also methods of social science aiming to illuminate states' approaches and attitudes towards contestation and illegality.

### VISION AND RESEARCH CONCEPT

Under the title 'Shades of Illegality in International Peace and Security Law' the research group analyses international peace and security law from the perspective of deviant behaviour and from the perspective of states' challenges to the law. The research is premised on the assumption that contestation of norms fulfils an important function in the multipolar order of international law. Such contestation and deviance is not only important for shaping and substantiating existing legal principles, it also allows a normative system without a central legislator to develop. On the other hand, illegal actions constitute a permanent danger to the international legal order as continuous violations of the law may lead to a decline of the law's normative power.

The research project has aimed to unpack the different dimensions, types, and effects of illegal actions. How is illegality 'constructed' in the first place? Where does the law allow to distinguish between legality and illegality in a binary mode and

### Establishing a typology of illegality

First, the project has set out to reach a differentiated understanding of forms and facets of illegal actions. It has done so by establishing and refining a typology of illegal actions that uncover the various effects and functions violations of the law fulfil, including from a perspective of the sources of international law. The project has researched the nuanced modes that international legal doctrine and practice have established in order to integrate these forms of illegality into the functioning of the overall system. The typology of illegality that results from this conceptual research constitutes the heart of the monograph **Völkerrechtsordnung und Völkerrechtsbruch: Theorie und Praxis der Illegalität im ius contra bellum**, written by Christian Marxsen as his habilitation thesis at the University of Heidelberg and published with Mohr Siebeck in 2021. An updated English version of the monograph is forthcoming with Oxford University Press as part of the Oxford Monographs in International Law series.

Christian Marxsen, *Völkerrechtsordnung und Völkerrechtsbruch: Theorie und Praxis der Illegalität im ius contra bellum* (Mohr Siebeck 2021)



## Mapping state practice from 1945 to present

In parallel to the drawing up of an illegality typology, the team has undertaken an extensive study of state practice related to armed conflicts from 1945 to 2020. The research group for the first time provides a systematic, coherent and comprehensive account of states' justificatory strategies for their participation in armed conflicts (from a *jus ad bellum* perspective). The case selection was based on political science conflict datasets and comprises 81 major international conflicts (< 1,000 battle-related deaths). For each actor the researchers have identified states' justifications for the use of force, have assessed which type (according to pre-established typology) of contestation has occurred, and which international reactions (by states and major UN organs) have occurred. These results have been coded and combined a database that allows statistical evaluation.

The analysis has revealed what states have been contesting in actual conflicts and with which legal arguments. This research into state practice has, in turn, also informed the broader typology of illegality, in particular the prevalence of the respective types of illegality in the practice of states.

The results of this cross-fertilisation of state practice and the illegality typology will be published in a comprehensive journal article in an international journal, in which Christian Marxsen and Florian Kriener assess how states and international organisations invoke and operationalise the prohibition of the use of force, hereby also providing an assessment about international law's static and dynamic elements in the law against war. The work on this article will be finished in the course of the year 2024.

## Approaching the (il)legal use of force through the lens of legal empirics

Many norms on international peace and security are indeterminate. Thus, in a concrete context, the meaning of these norms depends chiefly on interpretation. Moreover, international peace and security norms are also contested, which depends in turn on the policy discretion of states towards the design and development of international legal order. State representatives are paramount in both the interpretative and policymaking exercises, as they help to articulate what is considered legal or illegal by their State in a given situation. Therefore, this part of the project uses legal empirics to explore different interpretative and policymaking patterns and their importance for the evolution of peace and security law. By

conducting semi-structured interviews with a representative sample of diplomats we are identifying the main factors impacting on the interpretation and development of norms by state officials. The aim is to discern the different approaches to international law, existing and emerging dividing lines, and the diverging use of international law which can be found in the various legal cultures.

In parallel to holding and preparing the interviews, Christian Marxsen and Malcolm Jorgensen are convening a workshop on '**Comparative International Legal Policy**' which aims to analyse national political approaches towards the international legal order in early June 2024 in Berlin. Bringing together scholars from international law, international relations, and legal advisers, the workshop seeks to improve understanding of contestation that extends beyond specific rules and institutions, by developing an account of differences and similarities in states' policy approaches and perceived 'roles' towards the system of international law. The project will proceed to engage in a cross-cutting analysis of the empirical findings from interviews, combined with the analytical findings from workshop contributions, to map out a comparative account of emerging trends and fault lines in the construction of international legal order.

## Crafting a theoretical framework

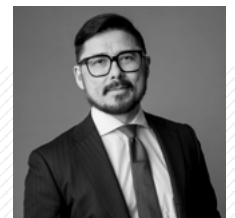
We also work on elaborating an overarching theoretical understanding of illegality. We link our doctrinal and empirical findings to the broader discourse, also in other disciplines. Especially international relations theory has extensively studied the effects of contestation and deviance and therefore provides an important point of reference also within the legal discourse. To bring together these different theoretical strands in international law and international relations, Christian Marxsen has convened an international conference on 'Norm contestation and the law against war', together with the former member of the research group Max Lesch, in Heidelberg in 2021. The conference was part of the research group's effort to develop an interdisciplinary analytical framework. Selected papers from the conference have been published in a **special issue by the Institute's Zeitschrift für ausländisches öffentliches Recht und Völkerrecht in 2022**. This includes a proposed analytical framework for an interdisciplinary approach to norm contestation by Christian Marxsen and former research group member Max Lesch.



**DR. FLORIAN KRIENER**



Prohibition of Intervention; Use of Force in International Law; Nonviolent Protest Movements; Democracy Promotion



**DR. MALCOLM ANDREW JORGENSEN**



Comparative International Law; International Law and International Relations; International Legal and Political Order; American Foreign and International Legal Policy; Indo-Pacific Policy; the Rules-Based Order



## Gaining a wider understanding of international conflicts

As part of the research group's broader aim to understand the significance of international law in international conflicts, individual group members have carried out doctoral research projects, some of which have been published or are in the process of being published.

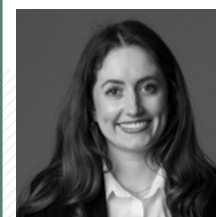
**FLORIAN KRIENER's** monograph **Proteste und Intervention: Die staatliche Unterstützung gewaltfreier Protestbewegungen im Völkerrecht** (Nomos 2024) assesses the international legal framework governing state support to nonviolent protest movements. It analyses non-military support measures granted to protest movements through five case studies. The case studies' findings are connected to the doctrinal framework, particularly the prohibition of intervention in international law. Florian Kriener and Christian Marxsen have also convened an international conference on peaceful protest movements in Heidelberg in 2023. Selected papers presented at the conference will be published as a special issue with the Institute's Zeitschrift für ausländisches öffentliches Recht und Völkerrecht.

**ALEXANDER WENTKER's** monograph **Party Status to Armed Conflict** is forthcoming with OUP in July 2024 as part the Oxford Monographs in International Law series. The book is based on his thesis, which has won several awards. It offers a comprehensive account of what party status to armed conflict means and how it is established under international law. In response to increasingly widespread cooperation practices, the book advances an analytical framework for identifying parties to conflicts with multiple parties on the same side. It aims to enhance understanding of how international law can best respond to the realities of contemporary conflicts and mitigate risks of diffused responsibilities.



**DR. ERIN KIMBERLEY POBJIE**

International Peace and Security Law; Emerging Global Security Risks; Use of Force; United Nations Law; Space Law; International Human Rights Law

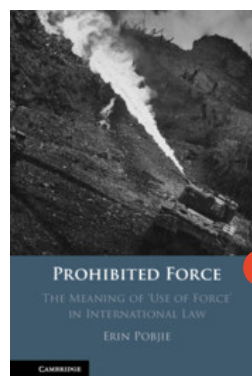


**LEONIE BRASSAT**

International Peace and Security Law; Military Operations; Protection of Nationals Abroad



**ERIN POBJIE** (former member of the research group) has, *inter alia*, conducted research on peace and security related questions of the Corona pandemic as well as on questions of space law. She has, during her time in the research group, completed the work on her manuscript of her doctoral dissertation, in which she develops a conceptual framework for grasping the notion of force in international law (**Erin Pobjie, Prohibited Force: The Meaning of 'Use of Force' in International Law, Cambridge University Press 2024**).



**Erin Pobjie, Prohibited Force: The Meaning of 'Use of Force' in International Law** (Cambridge University Press 2024)

**Alexander Wentker, Party Status to Armed Conflict in International Law** (Oxford University Press 2024)

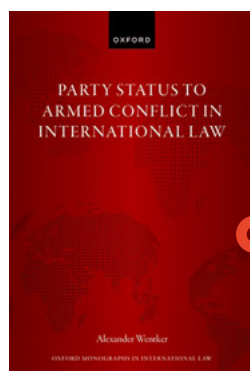
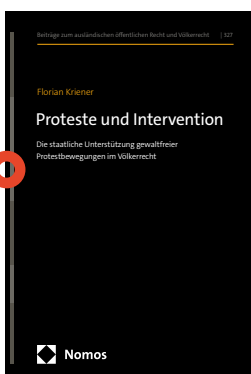


**DR. ALEXANDER WENTKER**

General Public International Law; Use of Force in International Law; International Humanitarian Law; Human Rights Law; International Dispute Settlement; German Public Law; EU Law; Transitional Justice



**Florian Kriener, Proteste und Intervention: Die staatliche Unterstützung gewaltfreier Protestbewegungen im Völkerrecht** (Nomos 2024)

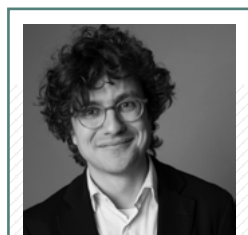


Two doctoral research projects are still ongoing.

**LEONIE BRASSAT**'s dissertation project deals with military operations to rescue and evacuate nationals from abroad (protection of nationals doctrine).

Recent examples of such military operations include the evacuation of nationals of various countries from conflict zones in Niger (August 2023), Sudan (March 2023), Afghanistan (August 2021), South Sudan (July 2016) and Libya (February 2011). The project aims to comprehensively analyse state practice in this area from 1990 to the present day. The aim is to clarify whether these military operations are now permissible under international law and which criteria and conditions such operations must fulfil in order to be lawful according to more recent state practice.

**FELIX HERBERT**'s dissertation analyses the peremptory character of the prohibition of the use of force. While it is widely accepted that this prohibition belongs to the peremptory norms of general international law (*jus cogens*), the scope of this peremptory norm and the implications and consequences of a peremptory element in the *jus contra bellum* remain contested. The project combines a doctrinal with an empirical investigation to contribute to a better understanding both of *jus cogens* in international law, and of the *jus contra bellum*.



**FELIX HERBERT**

Prohibition of the Use of Force; Peremptory Norms of International Law (*jus cogens*)



## OUTREACH AND COMMUNICATION OF RESEARCH RESULTS

In an effort to feed our research into the broader political and public discourse, several group members have, among other things, appeared as experts in parliamentary commissions of inquiry, contributed to the work of the International Law Association's Committee on the Use of Force, served as consultants to international law projects involving government and international organisations' legal advisers with the foreign affairs think tank Chatham House (The Royal Institute of International Affairs), given presentations, including with NATO's Office of Legal Affairs and the German Red Cross as well as numerous interviews to national and international media.



**CHARLOTTE MAGNUS**

Public International Law





# PUBLICATION HIGHLIGHTS

CHRISTIAN MARXSEN

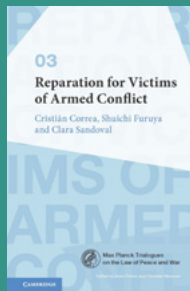
\*  
2021  
**CHRISTIAN MARXSEN**  
DER BINNENMARKT DER  
RÜSTUNGSGÜTER.

In: *Europarecht* 56 (3), p. 307–328.



\*  
2021  
**ANNE PETERS, CHRISTIAN MARXSEN (AS SERIES EDITORS OF AND CONTRIBUTORS TO), CRISTIÁN CORREA, SHUICHI FURUYA, CLARA SANDOVAL**  
REPARATION FOR VICTIMS OF ARMED CONFLICT,

*Max Planck Trialogues on the Law of Peace and War, Vol. 3, Cambridge University Press.*



\*  
2021  
**CHRISTIAN MARXSEN**  
VÖLKERRECHTSORDNUNG UND  
VÖLKERRECHTSBRUCH: THEORIE  
UND PRAXIS DER ILLEGALITÄT IM  
IUS CONTRA BELLUM,

*Mohr Siebeck, 577 pages.  
(translation into English accepted for publication with Oxford University Press).*



\*  
2023  
**MAX LESCH, CHRISTIAN MARXSEN**  
“NORM CONTESTATION IN THE  
LAW AGAINST WAR: TOWARDS AN  
INTERDISCIPLINARY ANALYTICAL  
FRAMEWORK”.

In: *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* 83 (1), p. 11–38.



## 2.3.5 TOWARDS A PROCEDURALISATION OF INTERNATIONAL LAW?

The Max Planck Fellowship Group on the **Proceduralisation of International Law**, led by Professor **HEIKE KRIEGER** together with Professor **Anne Peters** from 2017 to 2021, investigated the emerging trend of procedural obligations in international law. Through several interrelated projects, the group's work sought to determine whether the expansion of procedural obligations could be interpreted as a structural change in the international order.



PROF. DR. HEIKE  
KRIEGER



International Humanitarian Law; Human Rights Protection; General International Law



### VISION

The primary goal of the research group was to examine the trend towards the proceduralisation of international law. This concept refers to the increasing importance and emergence of procedural obligations, which dictate specific measures and actions in legal proceedings. These obligations can include requirements such as providing information, respecting deadlines, engaging in negotiations, and considering statements from other actors. The group aimed to understand how these procedural duties might not only support but also potentially replace substantive principles in international law, especially in contexts where a global consensus on material principles is lacking.

### RESEARCH PROGRAMME AND RESEARCH CONCEPT

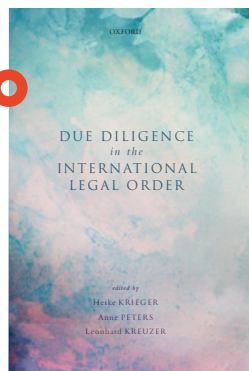
The group's research was built on the hypothesis that procedural obligations are becoming more prominent in international law. Procedural obligations relate to the processes and actions that shape legal proceedings and interactions. These can arise in both non-adversarial and court settings and can apply to various actors, including states, international organisations, transnational corporations, and NGOs. The distinction between procedural and substantive law, though traditionally clear, was also explored for its nuanced relationship in different legal contexts.

One of the central issues addressed was the potential substitution of substantive principles with procedural duties, particularly in the absence of a universal consensus on material principles. This phenomenon was linked to the broader discussions on global constitutionalism and the international rule of law, suggesting a trend towards a more formal or "thin" version of these concepts in contemporary international law.

### RESEARCH HIGHLIGHTS

#### Due Diligence in the International Legal Order

*Due Diligence in the International Legal Order* (Oxford University Press 2020), 420 pages (eds Heike Krieger, Anne Peters, and Leonhard Kreuzner)



Edited by Heike Krieger, Anne Peters, and Leonhard Kreuzner, **this book** provides a comprehensive analysis of the concept of due diligence in various areas of international law. An authors' workshop was held in June 2018 in Berlin and the edited volume was **published** by Oxford University Press in December 2020. The book explores the normative content and systemic relation of due diligence to international

legal rules and principles, covering sectors such as environmental law, peace and security law, and economic law. Contributors analysed how due diligence interacts with specific substantive and procedural rules, highlighting its role in enhancing accountability and compliance. The book underscores the significance of due diligence as both a driver and indicator of proceduralisation in the international legal order.

## Law and Truth

The habilitation thesis and resulting book **“Law and Truth”** by **Björnstjern Baade**, another cornerstone of the project, delves into the regulatory, asylum, and media-related aspects of truth-finding in international law. This work, supervised by Heike Krieger, addresses the challenges and protections associated with truth in various legal contexts.

## Procedural Obligations in International Migration Law

In recent decades, there has been a notable increase in the construction of border walls and fences worldwide. Events like the 2015 “refugee crisis,” the Covid-19 pandemic, and the closure of the Greek border in March 2020 have questioned if international law adequately protects the rights of refugees and migrants or overly defers to state discretion. This **PhD thesis** by **JONAS PÜSCHMANN**

(supervised by Heike Krieger) examines how procedural guarantees in international law, particularly in human rights and refugee law, influence state border policies. It investigates states’ practices of fortifying borders and externalising control by cooperating with origin and transit countries. The study identifies the content and limits of obligations, focusing on non-refoulement and the prohibition of collective expulsion, requiring procedural guarantees. These obligations are assessed against policies to internalise and externalise border controls, considering territorial scope and state responsibility. The dissertation questions if complicity rules require due diligence and procedural safeguards in cooperation with third states to protect human and refugee rights.

## Cyber Due Diligence

The harm prevention rule – including the due diligence standard of conduct it requires – is a potentially powerful accountability mechanism for malicious cyber operations of state and non-state actors when attribution fails. The PhD thesis by **Leonhard Kreuzer** (supervised by Heike Krieger and Anne Peters) provides the first comprehensive analysis of the harm prevention rule in cyberspace. An in-depth analysis of state practice and *opinio iuris* carves out which risks of cyber harm trigger due diligence obligations to prevent harm, and which measures states are required to take, distinguishing between binding minimum standards and non-binding best practice standards. The book based on the thesis, **“The Harm and Prevention Rule in Cyberspace: An Obligation of Due Diligence”**, is published with Nomos in 2024.



**JONAS PÜSCHMANN** 

International and European Human Rights Protection; Migration Law; General International Law; Public Law




**DR. LEONHARD KREUZER** 

International Law in Cyberspace; Human Rights Law; General International Law





# PUBLICATION HIGHLIGHTS

HEIKE KRIEGER

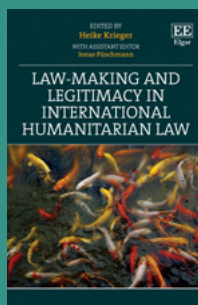
\*

2021

**HEIKE KRIEGER, JONAS PÜSCHMANN (EDS.)**

LAW-MAKING AND LEGITIMACY IN INTERNATIONAL HUMANITARIAN LAW,

*Cheltenham UK: Edward Elgar Publishing, 488 pages*



**HEIKE KRIEGER, JONAS PÜSCHMANN**  
LAW-MAKING AND LEGITIMACY IN INTERNATIONAL HUMANITARIAN LAW,

*in: H. Krieger (ed.), Law-making and Legitimacy in International Humanitarian Law, Cheltenham UK: Edward Elgar Publishing, p. 2–14*



2021

**HEIKE KRIEGER, JONAS PÜSCHMANN**

A LEGITIMACY CRISIS OF INTERNATIONAL HUMANITARIAN LAW?,

*in: H. Krieger (ed.), Law-making and Legitimacy in International Humanitarian Law, Cheltenham UK: Edward Elgar Publishing, p. 429–450*



75

## 2.3.6 TRANSNATIONAL SOLIDARITY CONFLICTS: CONSTITUTIONAL COURTS AS FORA FOR AND PLAYERS IN CONFLICT RESOLUTION



**PROF. DR. ANUSCHEH FARAHAT**



European and German Constitutional Law; European Economic and Social Governance; Migration and Refugee Law; International Human Rights Law; Comparative Constitutional Law



**EMMY-NOETHER-RESEARCH GROUP FUNDED BY THE GERMAN RESEARCH FOUNDATION**

**CO-HOSTED BY:**

Goethe-University of Frankfurt;  
Friedrich-Alexander-Universität (FAU)  
Erlangen-Nürnberg and MPIL

**PROJECT LEADER:**

Anuscheh Farahat (University of Vienna/MPIL)

**PROJECT MEMBERS:**

Teresa Violante (Law);  
Dr. Marius Hildebrand (Sociology)

### VISION

The research project (funded by DFG between March 2017 and August 2024) aimed to investigate why national constitutional courts become involved in transnational solidarity conflicts, how they use procedural law to control their involvement, and whether this involvement can be justified in terms of democracy and the separation of powers. During the reporting period, the project contributed new insights to constitutional theory, essential for understanding the integrative role of national constitutional jurisdiction in the European multi-level system.

### RESEARCH PROGRAMME

**THE PROJECT WAS DIVIDED INTO FOUR WORK PACKAGES:**

**Work package 1** was dedicated to developing a theory of transnational solidarity conflicts. This implied defining transnational solidarity in the context of the European Union and developing a deeper understanding of what we mean by conflicts. The ultimate goal was to develop a conflict-prone theory of transnational solidarity that allows us to analyse interactions between solidarity, conflict and crisis.

**Work package 2** was dedicated to analysing the case law of national constitutional courts in the context of the Eurozone crisis through our concept of transnational solidarity conflicts. The aim was to map different doctrinal and procedural techniques and assess the case law in light of the challenges posed by transnational solidarity conflicts.

**Work package 3** then focused on the European level and sought to analyse the approach developed by the European Court of Justice and other EU institutions (European Central Bank, Parliament, Commission) to transnational solidarity conflicts in the Eurozone.

**Work package 4** was dedicated to exploring the broader potential of our approach to transnational solidarity conflicts in other major societal and political crises in the EU (pandemic, migration, etc.). Our main interest was to understand the dynamic interplay between crises and transnational solidarity. Moreover, we aimed to explain under which conditions constitutional law can provide a means to integrate a political community in times of crisis.

## RESEARCH CONCEPT

### Conceptual framework and adaptations

The concept of transnational solidarity conflicts provided a valuable tool for analysing political divisions and conflicts in European politics. We refined our initial framework, understanding transnational solidarity as a reciprocal relationship between states and citizens aiming to distribute the costs and benefits of promoting the common good. We based this approach on Andrea Sangiovanni's work on transnational solidarity. This allowed us to explore conflicts over distribution issues in the euro crisis and subsequent political developments, such as disputes over refugee protection and financial aid distribution during the coronavirus pandemic. Taking a conflict-theoretical approach, we were able to better understand conflict dynamics and identify conditions for integrative conflict management by constitutional courts.

### Expansion of the scope of the research

The adjustments to the project's conceptual framework resulted in an expansion of the solidarity conflicts under study. Additionally, changes had to be made to the project's institutional scope. Initially, the focus was on investigating national constitutional courts, but we expanded it to include the European Court of Justice (ECJ) due to its increasing case law activity in transnational solidarity conflicts. The ECJ was considered a supranational constitutional court during the project, and its case law was included in the comparative study. However, the planned program to investigate the case law practice of five national constitutional courts proved unfeasible for various reasons, particularly due to the complex nature of the euro crisis conflicts in Spain and Ireland. As a result, we focused our empirical research on the ECJ, the German Federal Constitutional Court, the Portuguese Tribunal Constitucional, and the Greek Council of State.

## METHODS AND RESULTS

### Methods

The project applied an interdisciplinary and comparative approach to studying the legal mechanisms of conflict resolution in transnational solidarity conflicts. Our theoretical and conceptual work was heavily influenced both by philosophical work and political theory on transnational solidarity, whereas our understanding of integration through constitutional law built much on political science literature. The team members undertook empirical research through semi-structured background interviews with politicians, public lawyers, constitutional judges, and legal clerks in Spain, Portugal, and Greece. These interviews helped us employ a contextual comparative method that valued the historical and institutional specificities of the various constitutional orders under review. Due to the pandemic, some planned fieldwork had to be postponed or replaced by remote interviews.

### Scientific Results in Theses

- At the level of constitutional theory, a conflict-oriented theory of integration through constitutional law was developed as part of the project, based on political science considerations by André Brodocz. The core message of this theory is that constitutional courts can help to banish the destructive potential of solidarity conflicts if they succeed in establishing and protecting the constitution's openness to interpretation. The prerequisite for this is a reflexive understanding of democracy in line with Pierre Rosanvallon, according to which proceedings before constitutional courts are understood as a complementary and differentiating form of democratic decision-making. This requires procedures allowing the constitution to be expressed in as many voices and languages as possible and interpreted and used by as many social actors as possible. For integrative judicial conflict resolution in the context of solidarity conflicts, constitutional courts must make solidarity conflicts visible in their transnational dimension, be procedurally inclusive, i.e. provide many actors with access to the proceedings, argue in a substantively inclusive manner, i.e. take different interpretations seriously and take them into account, and keep the content of the constitution open, i.e. also allow for interpretative changes in the future.

- Measured against this standard, European constitutional jurisdiction (ECJ and ECHR) has proven ill-equipped for the specific solidarity conflicts in the euro crisis. The ECJ and ECtHR lack the procedural or substantive prerequisites to make the conflicts visible in their breadth and diversity and to deal with them following the criteria of fairness and openness. During the euro crisis, both courts were, therefore, only occasionally able to set meaningful limits to the political discourse on crisis management and to ensure the openness of interpretation of EU constitutional law. In the case of the ECJ, the reasons lie primarily in a restrictive interpretation of procedural law, combined with a strong path dependency of its case law. At the ECtHR, the material possibilities for deciding conflicts are limited from the outset, particularly in the socio-political area, due to the lack of fundamental social rights.
- The national constitutional courts often overlook the transnational aspect of conflicts and focus on nationalising solidarity conflicts. During the euro crisis, the Federal Constitutional Court aimed to strengthen the integrative power of the Basic Law internally. However, there was also a clear emphasis on a nation-state-oriented interpretation when it came to the transnational dimension of the conflicts. According to the case law of the Federal Constitutional Court, the guarantee of national democratic self-determination is ensured by defending or ensuring compliance with the European stability criteria of all euro member states. The court establishes a narrow understanding of solidarity, primarily viewing it as compliance with the law and relying on the principle of responsibility in overcoming economic crises.
- The project made an important and innovative contribution by comparing and analysing the constitutional discussions in Germany with those in other countries and at the European level. The case law of the Portuguese Constitutional Court was particularly relevant and interesting. The legal conflicts in the court's crisis case law focused on the extent to which the constitution allows for special burdens on public servants during budgetary crises, and whether legislative bodies are constitutionally obligated to consider alternative measures to cut spending. These conflicts were related to EU budgetary policy requirements and the Memoranda of Understanding. However, the European dimension was not heavily reflected in the case law of the Constitutional Court. The conflicts related to the euro crisis were primarily seen as national distribution conflicts by both the political players and the Constitutional Court. During the crisis, the Constitutional Court strengthened its position and made the constitution the central normative point of reference in the crisis debate. This was largely due to key decisions being supported by the centre-left government in power since 2015. This delegitimised the tightening of economic and social policy as 'unconstitutional'. The Constitutional Court became the symbol of a social-reformist constitution and created constitutional identification in times of crisis. However, it completely ignored European constitutional law and the transnational dimension of the conflicts.
- In the context of integrative conflict resolution through constitutional jurisdiction, all three individual studies indicate that procedural law partially shapes the ability to identify conflicts and the inclusivity of judicial conflict resolution. Constitutional jurisdiction bodies also play a crucial role by actively using procedural law to control their own involvement.
- When it comes to the material conditions of integrative conflict management, the study of the Federal Constitutional Court demonstrates that, despite strong symbolic foundations, there are deficiencies in procedural inclusivity and transparency of decision-making, which slightly weaken the interpretative power of constitutional jurisdiction.
- On the other hand, European constitutional jurisdiction during the euro crisis faced symbolic uncertainty, where the potential unifying impact of European constitutional law on the transnational European political community was unclear. In this scenario, apart from procedural requirements, the ability to address conflicts as constitutional conflicts is crucial, and the available rights catalogues play a significant role. Moreover, there is a certain path dependency observed in the jurisdiction of constitutional courts, making it challenging to adapt to new conflict structures and dynamics. This underscores the importance of constitutional jurisdiction bodies as actors in conflict management. To facilitate integrative conflict management based on constitutional law, these bodies must actively take up cases and consciously highlight the constitutional dimension of political and social conflicts. This is further supported by the analysis of the crisis jurisdiction of the Portuguese Tribunal Constitucional, which operated in a context of symbolic uncertainty but ultimately strengthened the social-reformist constitution of 1976 as a symbolic representation of the political community in collaboration with political actors.
- Based on this study, we developed specific proposals that would improve the chances of European constitutional law having an integrative force:
  - Horizontal constitutional court interaction: One potential improvement could involve enhancing the transnational aspect of managing conflicts in national constitutional courts in terms of procedural law. This could be achieved by introducing *amicus curiae* mechanisms, allowing government and opposition representatives as well as NGOs from other member states to be heard across borders before national constitutional bodies. However, this would only

apply to cases with a transnational dimension, which could be determined by an independent ombudsman's office.

- Transnational democratic theory: The potential for organising democratic decision-making beyond the nation state, in a way that allows for open resolution of political conflicts, needs to be enhanced. The European Parliament has not been able to fulfil this task yet. Therefore, institutional proposals need to be developed within the framework of a transnational theory of democracy that enable the inclusive resolution of such political conflicts.
- European constitutional jurisdiction: The European Court of Justice (ECJ), in cooperation with the European Court of Human Rights (ECHR), should take its role as a constitutional court more seriously. It should aim to reformulate major social and political projects using the language of European constitutional law. This approach could increase the recognition of European constitutional law as a central normative framework. For this to happen, political actors such as parties and NGOs need to challenge the current dominant interpretations of European constitutional law more vigorously and incorporate constitutional law into their political and legal strategies.
- The concept of transnational solidarity conflicts and the integrative and conflict-affine constitutional theory have proven effective in analysing other European conflicts and their constitutional significance. This applies to the solidarity conflicts in refugee and migration law, as well as the conflicts surrounding the 'Next Generation Europe' programme and the management of the pandemic.

## SCIENTIFIC HIGHLIGHTS

### Conferences

The project organised three academic conferences. To conclude the project, the final conference entitled 'Transnational Solidarity in Crisis: How Law Shapes Critical Transformations of Our Time' was held in Erlangen in November 2022, the results of which will be published by Nomos in the MPIL series in the fall of 2024.

### Career Development

During the reporting period, the project leader published a thesis (Habilitationsschrift) on transnational solidarity conflicts and constitutional jurisdiction at Goethe University Frankfurt, the results of which were incorporated into the monograph she published in 2021. **Anuscheh Farahat** then became a professor of Public Law, Human Rights Law, and Migration Law at the FAU Erlangen-Nürnberg. Since March 2024 she has been a professor of Public Law in European Context at the University of Vienna

Unfortunately, external and family circumstances prevented the other two members from completing their theses during the funding period.

**MARIUS HILDEBRAND** intends to do his habilitation in political science under the supervision of Prof. Dr André Brodocz in Erfurt. In his habilitation project "Constitution and Crisis. Constitutional Discourses of Order in the Context of the European Economic, Financial and Monetary Crisis", Marius is investigating how constitutional discourses relate to crisis discourses. The completion of his thesis has been delayed due to the birth of two children and the additional hurdles caused by the pandemic and related care situation. It is now planned for autumn 2024.

**Teresa Violante** intends to complete a doctorate on a topic related to constitutional law and democratic theory at FAU Erlangen-Nuremberg under the title 'European Constitutional Courts and Weak Judicial Review: A Comparative Analysis'. The finalisation of the thesis has been delayed, in particular, due to the pandemic, the care of two school-age children and the start of a new professional position. Completion of the work is now planned for summer 2025. Teresa Violante is now Director of the **Institute for the Global Rule of Law of the European Public Law Organisation**.



**DR. MARIUS HILDEBRAND**

General Sociology; Political Theory; Theories of Democracy; Conflict; Discourse Analysis



**TERESA VIOLANTE**

Relationship between Constitutional Adjudication and the Legislative Branch





# PUBLICATION HIGHLIGHTS

ANUSCHEH FARAHAT

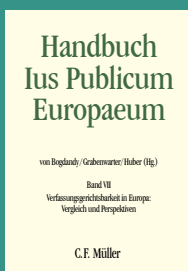
\*  
2021  
ANUSCHEH FARAHAT,  
XABIER ARZOZ (EDS.)  
CONTESTING AUSTERITY: A  
SOCIO-LEGAL INQUIRY,

Hart Publishing.



\*  
2021  
ANUSCHEH FARAHAT  
§ 116 VERFASSUNGS-  
GERICHTSBARKEIT UND  
GEWALTENGLIEDERUNG IM  
EUROPÄISCHEN RECHTSRAUM: EINE  
VERGLEICHENDE ANALYSE.

In: Armin von Bogdandy, Peter M. Huber,  
Christoph Grabenwarter (Hg.): *Ius  
Publicum Europaeum*, Bd. VII, C.F. Müller,  
p. 331–416.



\*  
2022  
ANUSCHEH FARAHAT  
HUMAN RIGHTS AND THE POLITICAL:  
ASSESSING THE ALLEGATION OF  
HUMAN RIGHTS OVERREACH IN  
MIGRATION MATTERS.

In: *Netherlands Quarterly of Human Rights (NQHR)*, 40 (2), p. 180–201.



\*  
2021  
ANUSCHEH FARAHAT  
TRANSNATIONALE SOLIDARITÄT-  
SKONFLIKTE: EINE VERGLEICHENDE  
ANALYSE VERFASSUNGSGERICHT-  
LICHER KONFLIKTBEARBEITUNG IN  
DER EUROKRISE,

Mohr Siebeck, 445 pages.



\*  
2023  
ANUSCHEH FARAHAT  
ADJUDICATING TRANSNATIONAL  
SOLIDARITY CONFLICTS.

In: Mark Dawson (ed.): *Substantive  
Accountability in Europe's New Economic  
Governance*, Cambridge University Press,  
p. 217–239.



## 2.4

# PERMANENT RESEARCH STAFF



PROF. DR. RAINER GROTE

Constitutional Law; Comparative Public Law; Human Rights



In addition to the doctoral and post-doctoral researchers, research group leaders, and visiting scholars at the Institute, several permanent staff researchers pursue their research as well as a broad variety of teaching and knowledge transfer activities at MPIL.

Professor **RAINER GROTE** is a German public law teacher (Staatsrechtslehrer) and an expert on comparative constitutional law with profound knowledge of a wide range of legal and constitutional systems, their doctrinal structures, social, historical, and cultural contexts. He regularly teaches at Georg-August-Universität Göttingen.

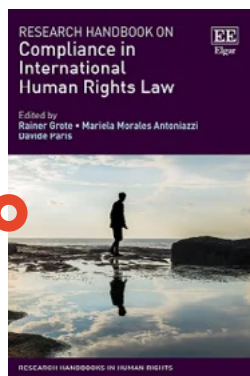
In his **project Compliance in International Human Rights Law** (with **Mariela Morales** and **Davide Paris**), taking a broad interdisciplinary approach to the subject, Rainer Grote explored one of the key problems in the efforts to promote effective protection of human rights beyond the nation state, which has become a major battleground in the debate on the continuing relevance of the liberal paradigm of international law and has increasingly come under pressure from a rising number of nationalist and authori-

tarian regimes. The resulting in-depth analysis of this debate in the field of international human rights law has been published as **Research Handbook on Compliance in International Human Rights Law**.

The 3<sup>rd</sup> edition of the **ECHR/GG Konkordanzkommentar** presents an updated and revised version of the novel commentary on the interrelationship between European human rights law and fundamental rights protection in the domestic legal system, which was first published in 2006 (edited with Oliver Dörr and Thilo Marauhn). By drawing extensive comparisons between the general foundations of individual rights protection, the substantive human rights guarantees and the mechanisms for their implementation in the German Basic Law, the European Convention on Human Rights and the EU/EC human rights regime, the commentary shows how national and European rules can be understood as a formative part of an increasingly integrated, multi-tier system of fundamental rights protection.

Rainer Grote serves as one of the General Editors of the **Max Planck Encyclopedia of Comparative Constitutional Law** (with Rüdiger Wolfrum and Frauke Lachenmann), a comprehensive and inclusive comparative survey published by Oxford University Press, covering, in approximately 500–550 peer-reviewed entries, all areas of constitutional law from a comparative perspective, involving high-level lawyers and social scientists who represent all legal cultures, giving due regard to the various methodologies of comparative constitutional law and regionally specific developments.

*Oliver Dörr, Rainer Grote and Thilo Marauhn (eds.), EMRK/GG Konkordanzkommentar, 3rd edition (2 volumes), Mohr Siebeck Tübingen 2022*



*Rainer Grote, Mariela Morales Antoniazzi and Davide Paris (eds.), Compliance in International Human Rights Law, Cheltenham/Northampton 2021*



*Max Planck Encyclopedia of Comparative Constitutional Law (MPECCoL), Oxford University Press*

Rainer Grote's forthcoming book **Transformative Constitutionalism and Transformative Constitutional Justice** (planned for publication in 2024) sets out the historical and doctrinal parameters for a comparative analysis of transformative constitutionalism in the US (especially during the Warren era), Germany, India, Colombia, and South Africa, and lays out a summary of the changes which the era of transformative constitutional law and jurisprudence has brought for our understanding of the idea and the main tenets of modern constitutional law, its structural implications and the prospects for further development.


With his broad and profound expertise in the field of international law, **MATTHIAS HARTWIG** regularly presented on current developments in international law at the Institute's Monday Meeting as well as to other professional audiences and broader publics. In the reporting period 2021–2023, he published in the field of international law (specifically in the field of the war in Ukraine). In the context of his wide-ranging networking and consulting activities, he was involved in a programme on the introduction of administrative adjudication in Central Asia and in a project on constitutional amendments in Iraq. He gave lectures at the universities of Trento, Santiago de Chile and Budapest. As part of MPIL's communications team, Matthias Hartwig served as press spokesperson of the Institute, responded to specific media enquiries on current issues in international, European or constitutional law or provided access to other colleagues with relevant expertise.

At intersections of law, media, and the humanities, **ALEXANDRA KEMMERER** is particularly interested in interrelations between **biography, doctrine, and theory**. Her research lies in the fields of international law, European public law, constitutional theory, comparative constitutional law, context(s) and histories of law, and the media theory and communicative praxis of law. In 2021–2023, she published, inter alia, on conceptual and institutional histories, on biographies in international law, the politics of expertise in legal scholarship, communicative aspects of strategic climate litigation, and on colonial continuities and legacies in German and European public law and legal scholarship. In 2021, she co-edited **Kolonialwaren** (with Ulrike Gleixner, Hermann Par-




**DR. MATTHIAS HARTWIG**

International Law: *Ius ad Bellum*, International Organisations, Human Rights Law; Comparative Public Law: Constitutional Law of Eastern Europe; Constitutional Amendments in Arab States

**ALEXANDRA KEMMERER**

History and Theory of Public International Law and European Legal Integration; European Constitutional Law; Comparative Constitutional Law; General International Law; Legal Scholarship and its Actors and Institutions; Media and Communicative Structures of Law




Ulrike Gleixner, Alexandra Kemmerer, Hermann Parzinger and Michael Matthiesen (eds.), *Kolonialwaren* (Zeitschrift für Ideengeschichte Heft XV/1), C.H. Beck, München 2021, 128 pages.



Alexandra Kemmerer (ed.), *Wissenschaft und Öffentlichkeit in der Krise: Medien, Akteure, Inhalte* (Themenheft), *Recht und Zugang* 2 (2021), Heft 3, Nomos, Baden-Baden 2022.

zinger and Michael Matthiesen) and a theme issue of **Recht und Zugang** (Scholarship and the Public Sphere in Crisis). In 2022, co-edited **Sicherheitsstrategie nach der Zeitenwende** (with Isabelle Ley) and **Die Sitzung** (with Barbara Stollberg-Rilinger). Since 2022, she co-leads the **Institute's centennial historiographical project MPIL100**, and is co-editor of the blog **MPIL100** (with Philipp Glahé). Alexandra Kemmerer's research is often interwoven with her institutional roles as academic coordinator and curator, chief communications strategist and head of the **MPIL Berlin Office**.

As an expert on the United Nations and on the norms, institutions and mechanisms of the universal protection of human rights, **CHRISTIANE PHILIPP** regularly reports on current developments in the UN system at the Institute's Monday Meeting. Since its relaunch in 2015, she has been responsible for the academic and editorial coordination of the **MPIL website**, the central interface for the Institute's internal and external communications activities. The website's primary feature is the presentation of the research conducted at the MPIL. In addition to information on the academic staff's personal pages, users can access information on institutional projects, academic qualification projects and research groups based at MPIL.

In her research and teaching, **MATEJA S. PLATISE** focuses on general international law, human rights, international institutional law, international dispute settlement and European law. She is conducting a research project on the Responsibility of International Organisations for Human Rights Violations, which aims to identify human rights norms that bind international organisations and to determine their content and scope of application, to refine the rules on attribution of responsibility to international organizations and to clarify legal consequences of such violations. She also publishes in related fields, with most recent publications including a comparative legal analysis of the protection of human rights in the business context at the national, international and EU levels; the role of particular international organisations in the protection of human rights, and a critical examination of the law governing the World Health Organisation (WHO), all of which have been accepted for publication in international peer-reviewed journals and edited volumes. Mateja S. Platise regularly teaches at the Universities of Frankfurt and Mannheim.



**DR. CHRISTIANE PHILIPP**

Universal Human Rights;  
United Nations



**DR. MATEJA PLATISE**

General International Law; Human Rights; International Institutional Law; Global Security; International Dispute Settlement; Legal Theory; European Law



Alongside the other research staff, the Institute's **Senior Research Affiliates** also continue to produce relevant research in the fields of comparative public law and international law. These Senior Research Affiliates maintain special academic ties to the Institute, often having previously worked here. They are valuable discussion partners, particularly for younger researchers, providing mentorship and fostering academic growth. Their personal pages and current publications, which reflect their ongoing contributions to these fields, can be found [here](#).



MPIL Monday Meeting, April 2024

## 2.5

# PERSONAL ASSISTANTS



85

## The Personal Assistants to the Directors

### NOT ONLY BACKSTAGE

Key figures in the staff at the MPIL that should not be overlooked are the personal assistants. Both directors at the MPIL each can rely on a team of two assistants, Henriette Beisel-Welti and Anette Kreutzfeld lead Anne Peters' office, while Yvonne Klein and Ute Koder-Binder are responsible for Armin von Bogdandy's office. They support the directors in their daily business, assisting in the management of the institute and teams, thereby helping them to concentrate on their research projects. Typical tasks range from managing the calendar to travel planning and the organisation of lectures, seminars, and conferences, to facilitating communication within the Institute. Beyond that, the assistants also take on tasks in more research-related areas such as managing publication projects, doing translations, and proofreading. For staff members and visiting researchers the assistants are always a reliable point of contact for a wide range of questions.

As far as their challenging schedules permit, they take on additional responsibilities and engage in the Institute's life in the sustainability group, as members of election committees, or as first aiders.

Specifically, the personal assistants to the directors at the MPIL undertake a wide range of tasks that are crucial for the smooth functioning of the institute. On the inbound side, they prepare internal meetings, coordinate recruiting activities, and act as points of contact for personnel and finance administration. As outbound activities for the directors, they manage their business trips, presentations, conference participation, visiting professorships, and committee activities. They also prepare reviews and references, ensuring that all external engagements are handled efficiently.

The multi-linguistic nature of their work allows them to effectively handle communications in various languages, which is essential for the international reach of the MPIL. They also play a significant role in facilitating reporting activities as well as applying for grants, ensuring that all necessary documentation and processes are meticulously managed. Overall, the personal assistants are indispensable in both the operational and academic functions of the institute, providing comprehensive support that enables the directors to focus on their research and leadership responsibilities.



**ORGANISATION**



## 3.1

ADMINISTRATION

88

## 3.2

LIBRARY

95

## 3.3

DIVERSITY AND EQUAL OPPORTUNITIES

101

## 3.4

SUSTAINABILITY

102

## 3.5

CAREER DEVELOPMENT

103

# 3.1

# ADMINISTRATION: GOVERNANCE AND COMPLIANCE

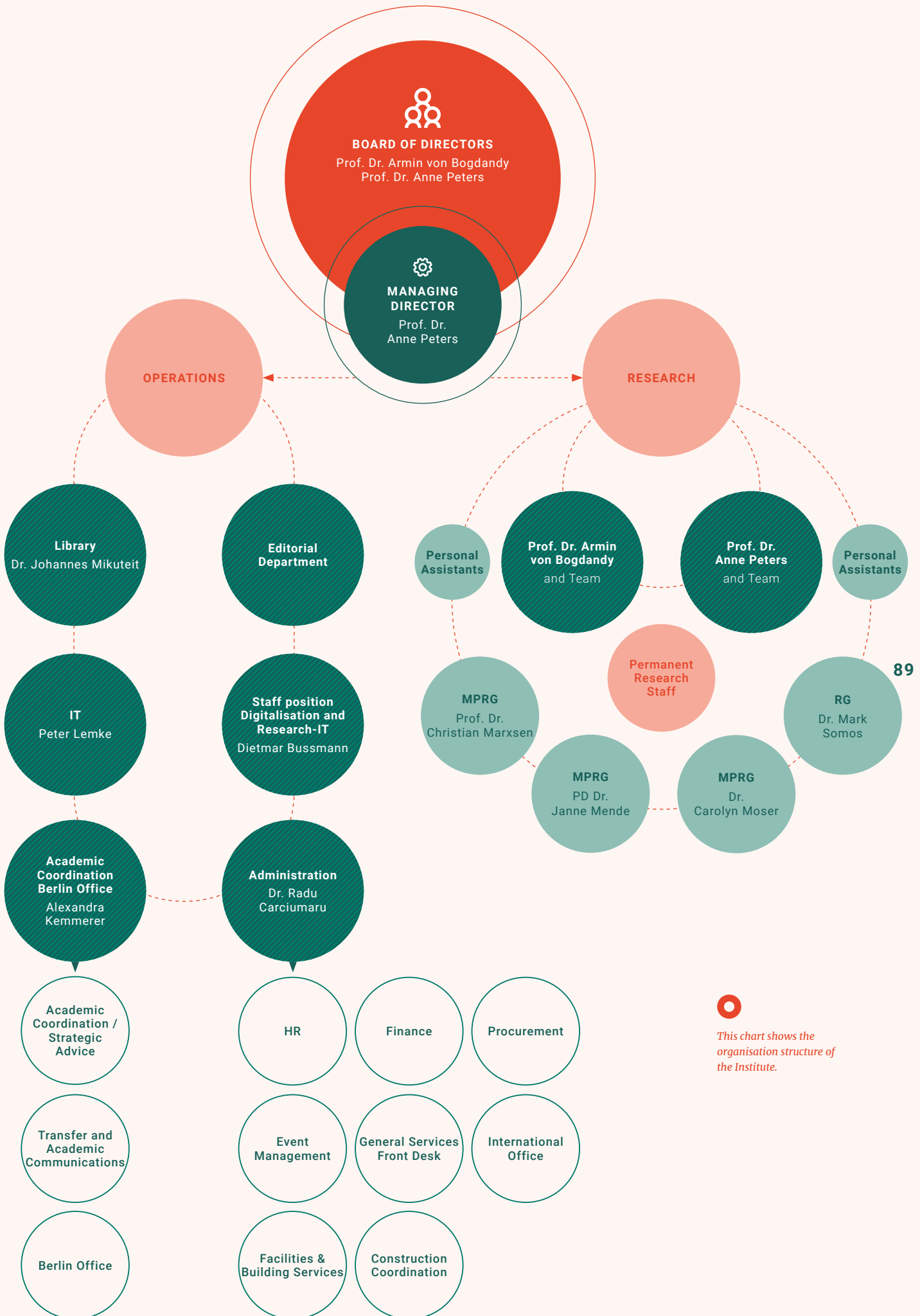
88



## ADMINISTRATION 4.0: CHANGE AND CONTINUITY

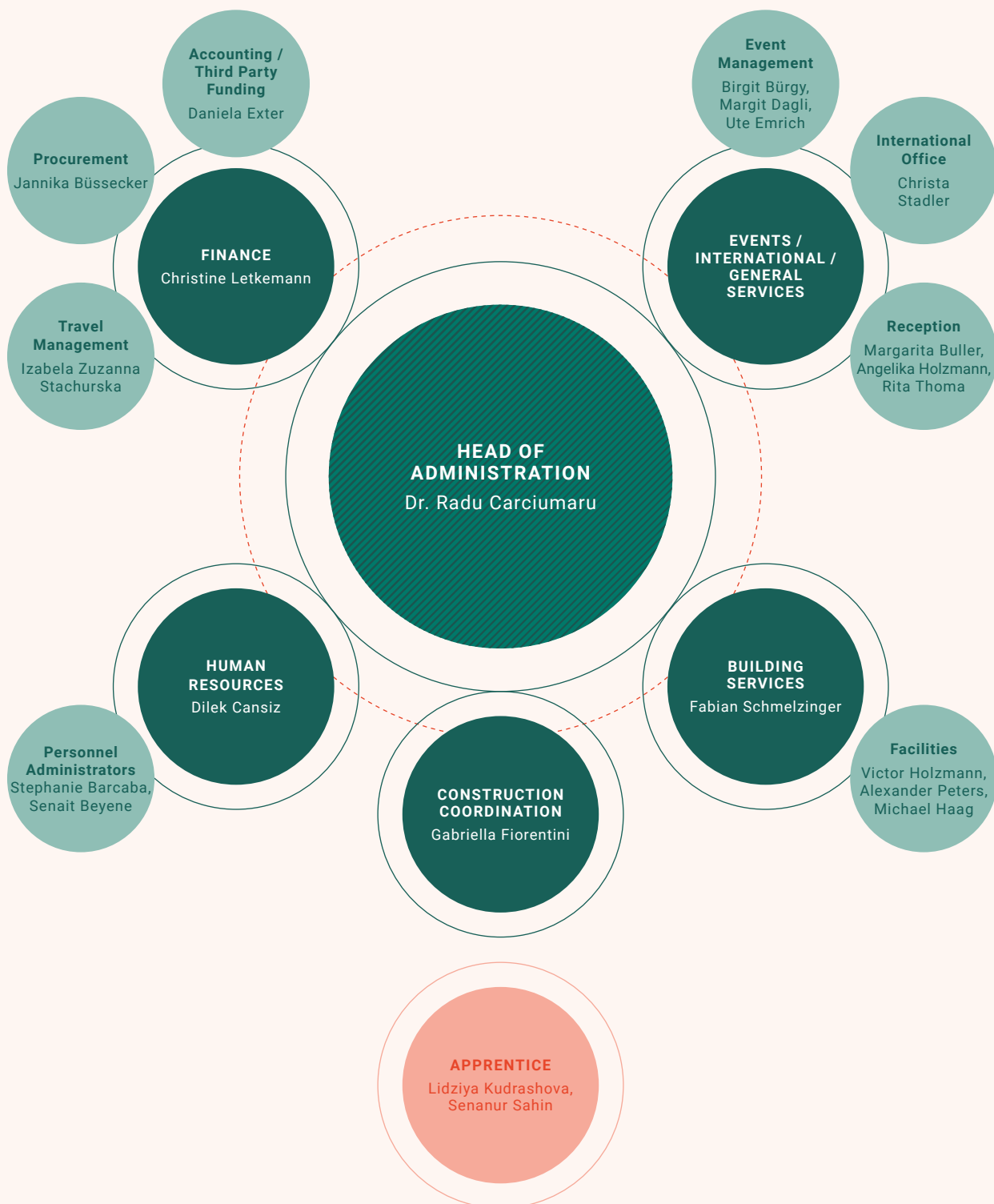
Our administration team of 23 dedicated staff and apprentices is divided into eight departments: Construction Coordination, Event Management, Facilities Management, Finance, General Services, Human Resources, International Office, and Procurement. This diverse unit supports our scholarly endeavours and drives essential change processes. Transparency, timely information, and constant communication are essential to ensure that these changes find acceptance and are sustainable. Our aim is to interlock digital with analogous processes in the administration, the "Administration 4.0".

Empowering, informing, and supporting researchers at the MPIL is our core activity. We seek to strengthen cohesion and thereby performance through team-building activities, fostering resilience, and promoting unity. By providing essential support and infrastructure, the administration enables researchers to focus on their work.



**89**

This chart shows the organisation structure of the Institute.



*This chart shows the organisation of the Administrative Department as of December 2023.*

# Key Initiatives and Developments

## DIGITALISATION OF ADMINISTRATIVE PROCESSES

We have introduced comprehensive digitalisation measures, such as a job application management system (BITE), a new travel booking system (ORBS), and a facility management system (Archibus). These initiatives have increased efficiency and simplified the administrative tasks. In addition, the administration, together with other departments, has migrated our old intranet to the MPS-wide MAX platform, which offers various communication and collaboration opportunities for researchers, administrative staff, and external partners.

## PROCESS OPTIMISATION AND SIMPLIFICATION

Together with MPS experts, we identified 119 administrative processes needing amelioration. We focused on event management and onboarding activities as pilot projects, as these processes involve most of the sectors of the Institute. Our ultimate goal is to improve all processes.

## PROFESSIONALISATION OF COMMUNICATION AND NETWORKING

We are committed to a holistic approach, ensuring a consistent image and comprehensive responses from the administration. Internal and external communication is promoted through open, transparent, and respectful interactions.

## SUSTAINABILITY AND ENERGY MANAGEMENT

During the reporting period, we implemented over 20 targeted measures—including temperature reduction, temporary shutdown of technical systems, full conversion to LED lighting and motion sensors, reduction of outdoor lighting, and installation of electricity meters—that have significantly reduced our energy consumption. Notably, we were the first institute to conduct a professional energy audit and engage an energy consultancy, setting a benchmark for other MPS institutes. In collaboration with the Institute's Sustainability Group, we are actively promoting behavioral changes, such as turning off lights when leaving the office, opting for hybrid or online meetings, and practicing waste separation. For more details on these measures, please refer to the Sustainability section.

## MENTAL HEALTH AND CONFLICT PREVENTION

Recognising the importance of mental health, we implement support measures such as workshops and awareness days. Conflict prevention strategies are in place to ensure a harmonious, open, and respectful working environment.

## MODERN WORKING METHODS

On the MPS level, we were one of the first institutes to introduce working methods such as desk sharing and mobile working to increase flexibility and efficiency.

## ARTIFICIAL INTELLIGENCE (AI) INTEGRATION

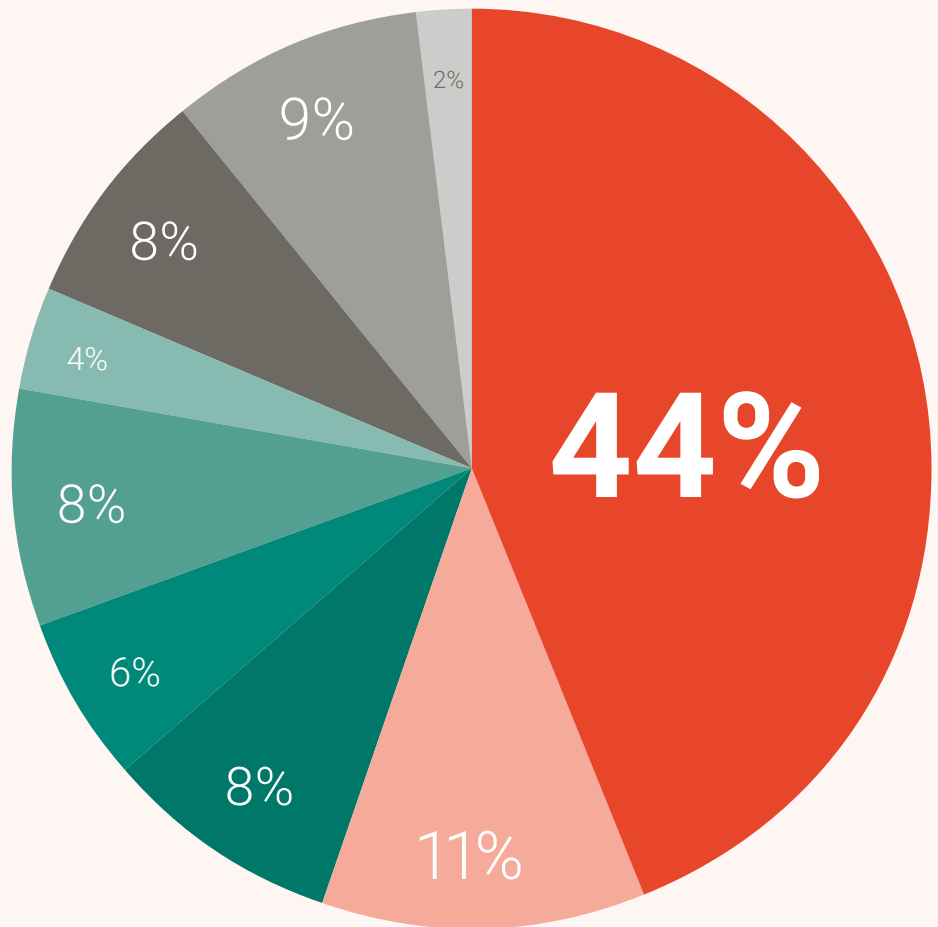
As artificial intelligence will increasingly influence our work, we have taken initial steps to integrate AI tools and harness their potential to enhance our administrative capabilities.

These measures underline our commitment to positioning the administration as a supportive unit that best contributes to the development of the Institute. We aim to ensure that our administration keeps evolving in line with the needs of our academic community.

# AGE STRUCTURE (ALL EMPLOYEES)

**168**<sup>TOTAL</sup>

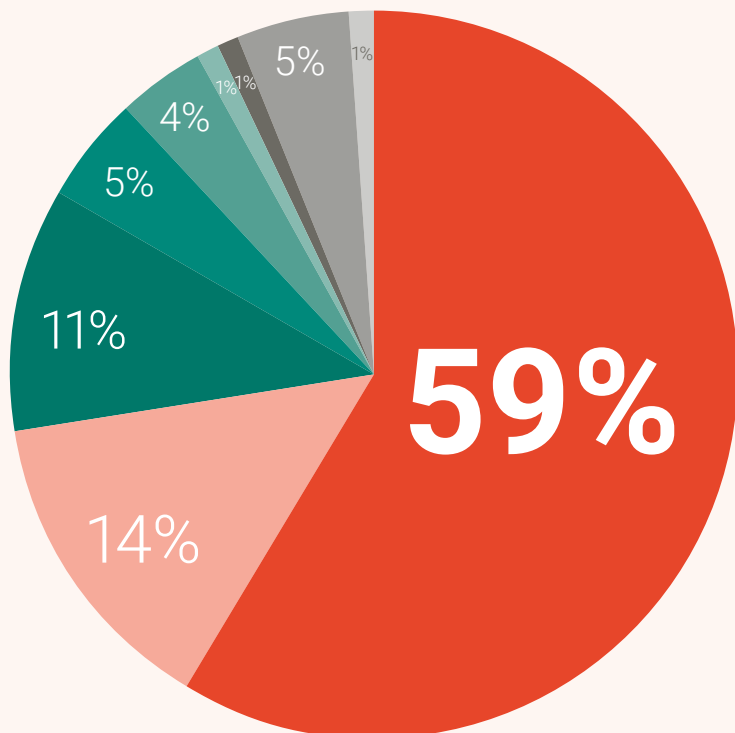
- 30 OR BELOW
- 31-35
- 36-40
- 41-45
- 46-50
- 51-55
- 56-60
- 61-65
- OVER 65



92

# AGE STRUCTURE (SCHOLARS)

**102**<sup>TOTAL</sup>



These charts show the age structure of all employees as well as employees in the research department of the Institute.

# STAFF STATISTICS



*This chart shows the statistics of scientific vs. non-scientific positions, full-time vs. temporary positions, as well as the proportion of women among the total number of employees and especially in research positions.*

\*Scientific positions: Directors, PhD students, postdocs, research group leaders, interns, student and research assistants, scholarship holders.  
31.12.2023

# BUDGET



The budget structure of the Max Planck Institute for Comparative Public Law and International Law is shown in the following table on the development of income and expenditure in the years 2021–2023. All amounts are in euros.

COST ELEMENT	2021	2022	2023
Revenue/Income	-177.499,15	-571.113,90	-319.754,44
Personnel expenses	4.353.016,99	4.285.847,45	4.352.920,84
Promotion of junior staff	1.141.612,58	1.190.637,03	977.046,24
Material expenses	1.455.103,75	1.903.916,39	1.906.360,79
Capital expenditure	1.082.197,85	990.046,46	836.442,48
<b>* Core budget</b>	<b>7.854.432,02</b>	<b>7.799.333,43</b>	<b>7.753.015,91</b>
Investment IT/ BAR	0,00	0,00	619.924,22
<b>* Central funds</b>	<b>0,00</b>	<b>0,00</b>	<b>619.924,22</b>
Building maintenance	326.730,01	392.719,63	310.644,22
Research groups	596.718,97	835.637,26	956.369,77
Max Planck Fellows	98.132,93	76.960,78	126.482,81
Cross-institute research initiatives	3.143,47	0,00	25.921,71
Partner groups	0,00	17.684,68	2.315,32
Other	116.047,78	63.886,92	0,00
<b>* MPS-Projects</b>	<b>1.140.773,16</b>	<b>1.386.889,27</b>	<b>1.421.733,83</b>
EU	2.742,49	0,00	0,00
DFG	746.653,20	1.136.698,07	647.923,37
Other	10.575,42	380.456,65	131.202,35
Private assets MPS	39.250,83	20.936,97	61.779,30
<b>* External funding</b>	<b>799.221,94</b>	<b>1.538.091,69</b>	<b>840.905,02</b>
<b>** TOTAL EXPENSES</b>	<b>9.794.427,12</b>	<b>10.724.314,39</b>	<b>10.635.578,98</b>

# 3.2

# LIBRARY



The library continues to hold a leading position as one of the largest libraries of its kind in the world. Until the end of 2022, library work was still largely determined by the effects of the corona pandemic. Even after the end of the pandemic, the library continued to pursue a policy of expanding the range of online resources, namely the e-book range. New acquisition instruments such as PDA/DDA and EBA/EBS were used, making acquisition more user-controlled.

Literature on international and European law, foreign public law with a regional focus, and a selection from neighbouring disciplines was acquired in more than thirty languages. The media holdings continued to grow significantly. The Institute library has a total of 722,533 media units (status: December 31, 2023). The German national journal database *Zeitschriftendatenbank (ZDB)* and the Institute's online catalogue (OPAC) contain 32,462 records of the library's printed and electronic journals from all years. 154,168 journals from all subject areas can be accessed via the *Elektronische Zeitschriftenbibliothek (EZB)*.

The Institute library continues to be a depository library for the United Nations and numerous UN (special) organisations. It makes publications by these organisations available to the interested public free of charge. The collection of publications by other European and international organisations, such

as the Council of Europe or the European Court of Human Rights, is concentrated in a separate work area.

Approximately 19,100 newly acquired volumes (purchased, exchanged, and gifted) were catalogued during the reporting period. The catalogue is continuously enriched with scans of Tables of Contents (ToC) of commemorative publications, collective works, as well as monographs. In the reporting period, there were 12,844 scans, of which around a third were indexed and made searchable in the OPAC. In addition, publications by authors of the Institute are continuously recorded in the publication repository of the Max Planck Society (*MPG.PuRe*). This amounts to around 200 publications annually. The additional cataloguing of selected articles on international and European law from yearbooks, collected works, etc. was discontinued at the end of 2021, as it is outdated by research engines such as Google Scholar. Since January 2023, the library have started a new service: electronic Tables of Contents of journals that are only available in print are now being circulated via email distribution lists. The electronic circulation of journals continues unchanged. New book publications by members of the Institute have been physically on display in the foyer since 2021.

After several years of preparation, in September 2023 the library presented the new Resource Discovery System (RDS) called **Comparative Public and International Law (CPIL)** based on the open-source software *VuFind*. This is a special search engine that will replace the previous electronic catalog (**OPAC**) and enables searches in an extensive bibliographic database, including the library's local holdings. It also gives access to a licensed commercial search index holding a vast amount of bibliographic data. This allows quick, direct access to digital content.

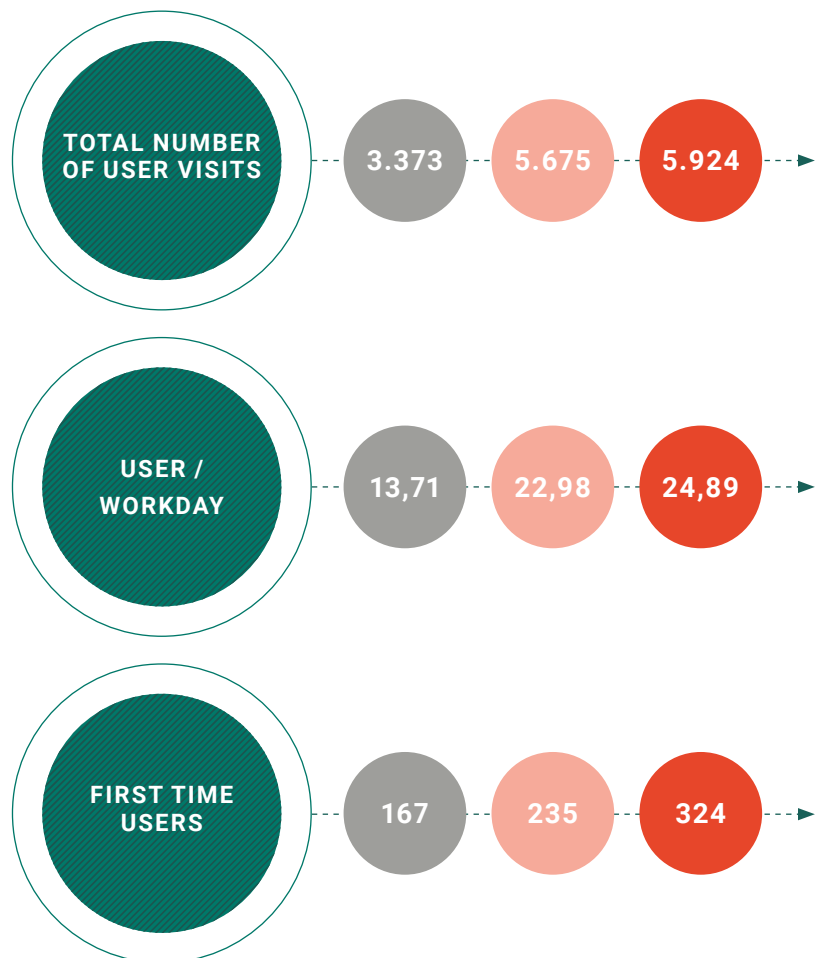
In 2022, technical reasons required the unexpected and urgent introduction of a new library management system, a central means for carrying out the library's tasks. The library team responded to this challenge with efficiency and flexibility. Together with five affected (MPS) libraries, we decided to switch to the open source system *Koha*, expected to be implemented in 2025. This system represents a viable interim solution on the way to a cloud-based so-called "next generation" library management system. The GWDG in Göttingen continues to serve as an experienced technical service provider. The new Resource Discovery System will be a central module of the "next generation" library management system.

In addition, the library continuously developed its information and service profile. For example, the library's intranet presence was migrated to the MPS platform MAX and fundamentally revised; the library continues to participate in MPIL's social media activities. The **(library) annual report** was published for **2021** and as a double issue for **2022/2023**. In addition, library introductions, training courses, etc. took place regularly. In 2023, the library hosted the fall meeting of information service providers/librarians of the GSH section.

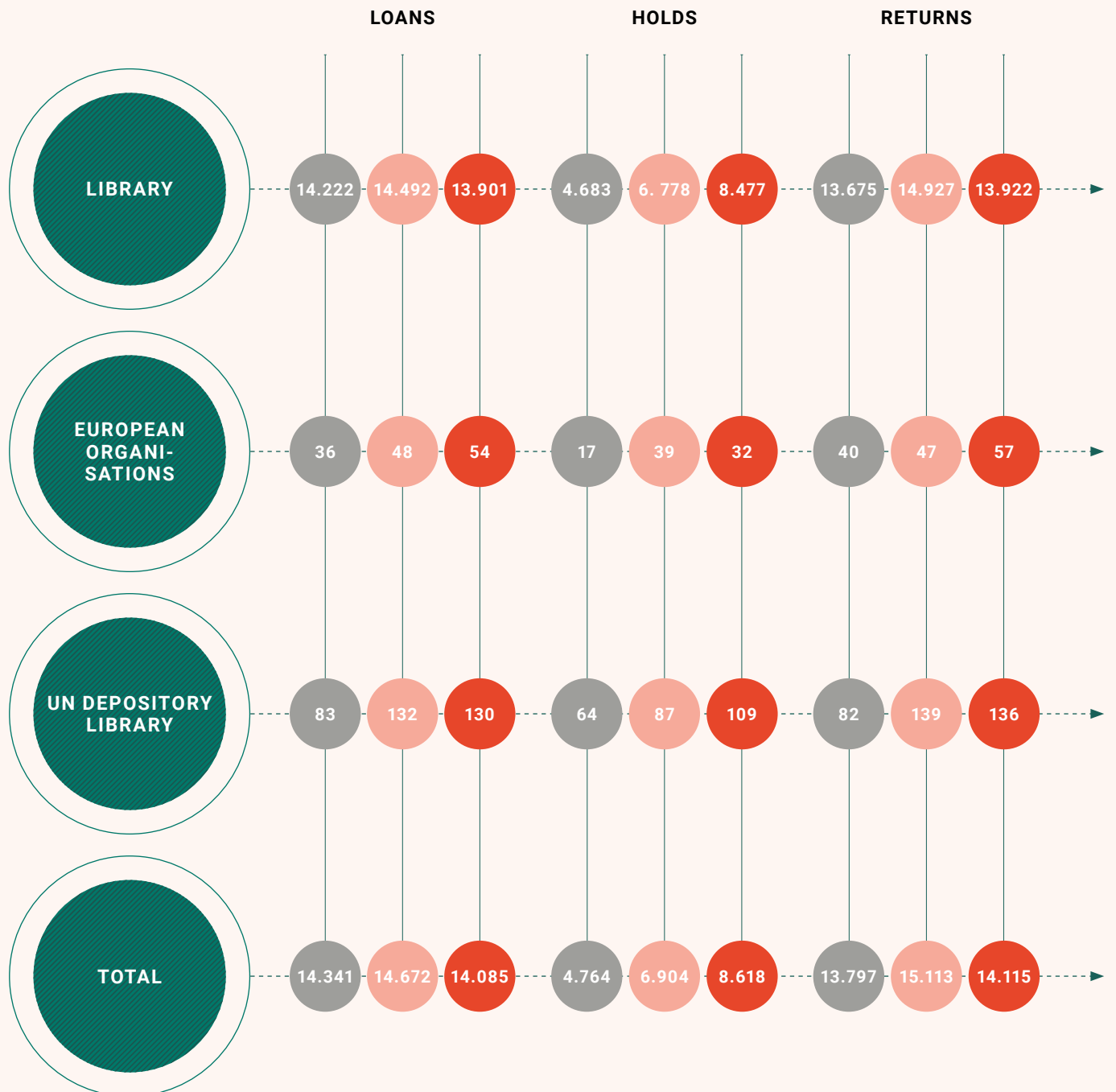
## STATISTICAL OVERVIEWS

● 2021  
● 2022  
● 2023

### USER STATISTICS READING-ROOM GUESTS

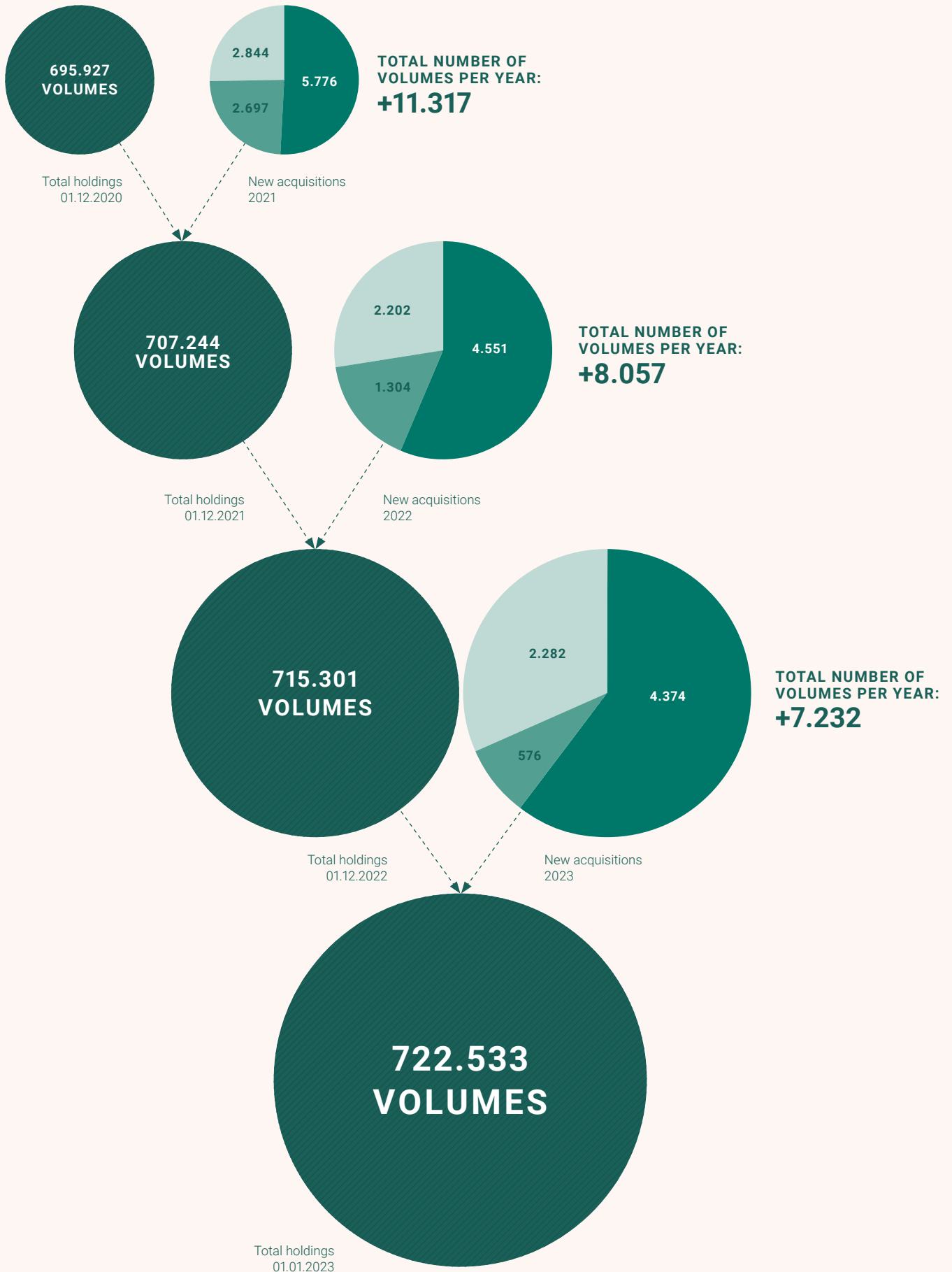


## CIRCULATION STATISTICS 2021–2023



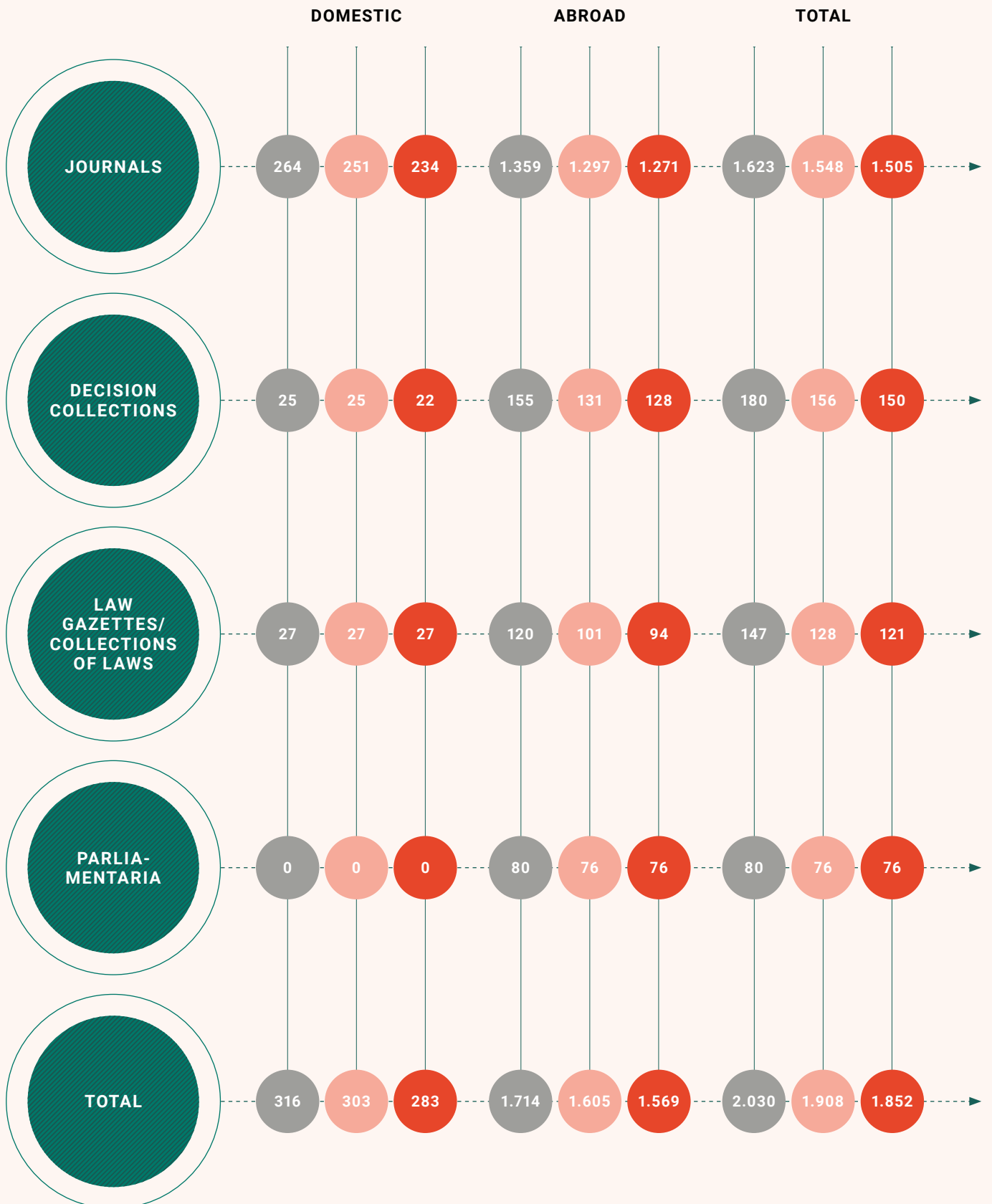
ACQUISITION STATISTICS

- PURCHASE
- GIFTS
- BOOKBINDING STOCKS

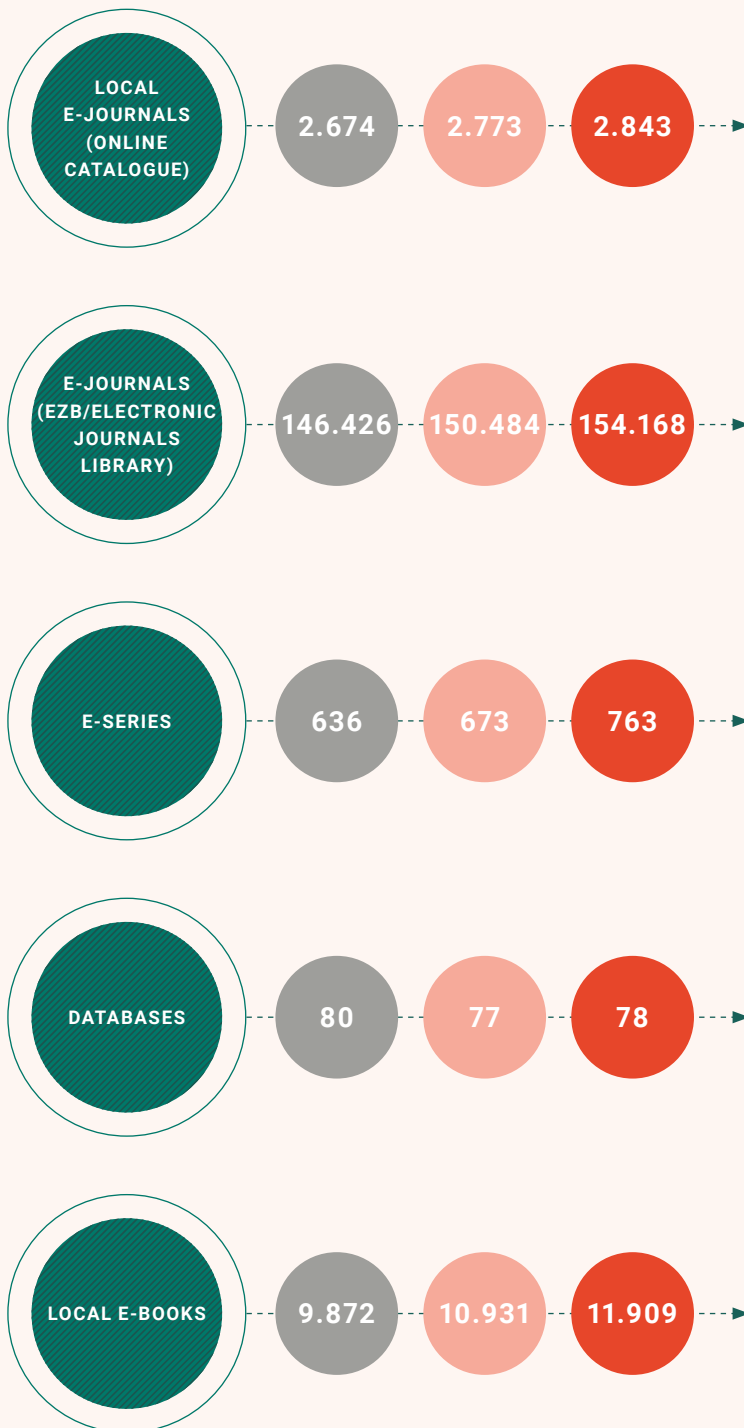


## PERIODICAL PRINT PUBLICATIONS

● 2021  
● 2022  
● 2023



## DIGITAL RESOURCES





# DIVERSITY AND EQUAL OPPORTUNITIES

## GENDER EQUALITY

In January 2024, and in close collaboration with the MPS gender equality bureau, the Institute adopted a new gender equality plan for the years 2024–2026, which is currently being implemented. The plan is based on a solid data analysis and an Institute-wide survey on the topic of equality which the Institute's **Gender Equality Officers** conducted in fall 2023. The survey shows that according to the staff's perception, measures to promote gender equality need to be stepped up. The new gender equality plan aspires to anchor gender equality work in the organisation and processes of the Institute. One important field of action is to address the gap between the number of male and female postdocs. A range of specific measures to promote gender equality and the requisite gender budgeting are planned. Additionally, the topics of gender diversity and intersectionality shall be incorporated into the Institute's everyday work.

One important finding of the survey of 2023 was that the culture of discussion could benefit from greater gender sensitivity. Therefore, the gender equality plan envisages opportunities for training in the form of at least two workshops at the Institute, one for management and one for all staff. These workshops are intended to raise awareness about various forms of discrimination in the workplace.

The processes of adopting, discussing, and ultimately implementing the gender equality plan acknowledge that an active promotion of gender equality by all staff and especially the Directors of the Institute is desirable. The gender equality plan foresees numerous specific measures to close gaps in gender equality work which can now be implemented at the Institute over the next three years. The gender equality officer, the Directors and the head of administration are in an ongoing conversation about how to tackle gender equality concerns more effectively. All staff are invited to contribute to this undertaking.

## FAMILY

The **Family Officer** endeavours to continuously improve the compatibility of family and career. Mobile and flexible working is facilitated. A monthly consultation hour with other family officers at the Max Planck Institutes helps to support employees in matters relating to work-life-balance such as parental leave, childcare, reimbursement of childcare costs, and elder care. The Directorate and the administration always seek to find flexible solutions to reconcile work and family life as far as possible.

## DISABILITY

The **Disability Officer** promotes the integration of employees with disabilities into and at the Institute, representing their interests and providing them with advice and support. The Disability Officer participates in regular meetings with the Works Council, the Directors and the different heads of departments. Further, the Disability Officer cooperates with the Gender Equality Officer and the Family Officer in the larger framework of diversity and equal opportunities at the Institute.



# SUSTAINABILITY

The position of an Environmental Officer was created in 2020 to assist and advise the Directors on environmental matters. The Officer's task is to seek information and make proposals. Employees have formed an informal Sustainability Group in 2023 to promote sustainability at the Institute. The Max Planck Society recently decided on a climate neutrality target by 2035. A comprehensive strategy for the Institute to align its policies with this target has yet to be developed.

## THE INSTITUTE TOOK SEVERAL MEASURES IN 2021–2023 TO REDUCE ITS HARMFUL ENVIRONMENTAL IMPACT:

### POWER CONSUMPTION

We have made significant strides towards sustainability by being one of the first MPI institutes to receive funding for a photovoltaic system under the Max Planck Solar Programme. Additionally, we have implemented over 20 energy-saving measures with positive environmental impacts. These include switching off the ventilation systems in the library stacks over the weekend, raising the temperature in the server rooms by 4 degrees Celsius (from 20 to 24 degrees), the complete conversion of the Institute to LED lighting by the end of 2024 (75% implemented in 2023), as well as upgrading all corridor and restroom lights to motion control. Moreover, electricity meters have been installed and a system diagram has been created, enabling precise measurement of energy consumption. In light of the Institute's significant power consumption, a professional energy consultancy was commissioned in 2023; the process is ongoing.

### MOBILITY

To incentivise climate friendly commutes, the Institute offers for employees to purchase reduced public transport tickets in cooperation with the local public transportation provider. The two fossil-fuel-powered limousines for use by the directors have been replaced by one electric vehicle. As regards flights for academic travel, the Institute's largest mobility-related source of carbon emissions, an Institute-wide policy suggested by the Environmental Officer has not been adopted by the Directors so far. Currently, each individual employee is encouraged to consider the harmful environmental impact of flights.

### MISCELLANEOUS

In 2022, our Institute was awarded the "Sustainable Business" prize by the city of Heidelberg. Printing paper is sourced from sustainable forestry projects. A new mowing policy is being followed to allow for more biodiversity in some of the green spaces around the Institute's building. The Institute participates in the two MPS pilot projects on climate protection and sustainability: The Greenhouse Balance Project and the Sustainable Energy Measures Project. Thanks to the energy saving measures and the close cooperation and coordination with the MPS, we have been able to reduce our energy consumption by about 20% (from 655,595 kWh in 2022 to 529,083 kWh in 2023). We will continue our efforts to further reduce energy consumption.



# CAREER DEVELOPMENT

## STUDENT RESEARCH ASSISTANTS

47 student research assistants have worked for the Institute during the reporting period. Their individual career development at the MPIL is robustly supported. Part of their working hours can be used for assisting in the Monday Meeting. Their interests are brought to bear by two student representatives, an office created in 2019. Monthly “Stammtische” are hosted by those representatives to enhance networking and integration, allowing the student research assistants to connect with peers and exchange experiences. Additionally, a new student buddy programme was introduced in 2023, pairing new student research assistants with more experienced colleagues or research fellows to facilitate smoother integration into the Institute and encourage active participation in its various working and research formats.

## INTERNSHIP PROGRAMME

During the reporting years 2021 to 2023, the MPIL internship programme has consistently provided a platform for aspiring young legal scholars. During this time, the Institute hosted 18 interns, drawing interest from a diverse array of over 350 outstanding applicants hailing from over 60 different countries. This international reach underscores the programme’s global appeal and its commitment to fostering a stimulating and diverse working environment, and broadening MPIL’s global network.

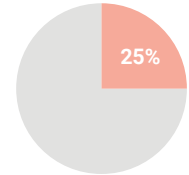
## JUDICIAL FELLOWS PROGRAMME

The Institute’s staff researchers can apply, through the Institute and in a competitive two stage selection procedure, for a **Judicial Fellows Programme** at the International Court of Justice. If successful, the Institute finances their one-year work experience at the Court.

# DOCTORAL STUDENTS

● FEMALE  
● MALE

## Department Armin von Bogdandy



### COMPLETED DOCTORATES IN THE PERIOD 2021-2023:

NAME	Title of Dissertation	Start of Contract at the MPIL	Submission of Dissertation to the University Faculty	Duration of PhD	Notes on Duration
GIACOMO RUGGE	Trilogues: The Democratic Secret of European Legislation	01.11.2016	12.01.2021	4 years, 2 months	9 months legal service in European Parliament; 3 semesters teaching at Università Cattolica di Milano
THEODOR SHULMAN	The Challenge of Stability – Niklas Luhmann's Early Political Sociology and Constitutional Adjudication in the United States and Germany	01.11.2015	04.12.2022	6 years, 5 months	Including 10 months LLM studies in the USA
LUKE DIMITRIOS SPIEKER	EU Values Before the Court. Foundations, Potentials and Risks of an Article 2 TEU-based Jurisprudence	01.06.2018	29.11.2021	3 years, 6 months	
SILVIA STEININGER	Dynamics of Resilience. Regional Human Rights Regimes in Times of Backlash	01.10.2016	15.05.2023	6 years, 7 months	Research stays at iCourts, Hertie School Berlin, MPI Luxembourg, and Judicial Studies Institute Brno; Member of Works Council, ESIL Early-Career Representative

104

### DOCTORAL CANDIDATES IN THE PERIOD 2021-2023 (ONGOING):



### HABILITATION CANDIDATES IN THE PERIOD 2021-2023:



### POSTDOCS IN THE PERIOD 2021-2023:



### NUMBER OF EXTERNAL REVIEWS (PARTICIPATION IN DOCTORAL COMMITTEES AS EXAMINER) IN THE PERIOD 2021-2023:





The proportion of women in all dissertations supervised by Anne Peters since 2013 (her start at the Institute) is 55%.

## Department Anne Peters



### COMPLETED DOCTORATES IN THE PERIOD 2021–2023:

NAME	Title of Dissertation	Start of Contract at the MPIL	Submission of Dissertation to the University Faculty	Duration of PhD	Notes on Duration
LEANDER BEINLICH	Access Rights – Challenging External State Action and International Law Violations before Domestic Courts	15.10.2017	06.01.2023	5 years, 3 months	
LUCAS DE MIQUEL SÁNCHEZ	Legislative Remedies in Human Rights Adjudication	01.01.2018	10.02.2023	5 years, 1 month	
RICHARD DÖREN	Business and Human Rights in den USA und in Deutschland: Ein Vergleich der völkerrechtswissenschaftlichen Diskurse	01.03.2018	31.05.2023	4 years, 3 months	Including 10 months LLM studies in the USA
ROBERT STENDEL	Immaterieller Schadensersatz und der Wandel völkerrechtlicher Privatrechtsanalogien	01.05.2018	04.10.2022	3 years, 6 months	Including 9 months LLM studies in the UK
RAPHAEL SCHÄFER	Humanität als Vehikel – Der Diskurs um die Kodifikation des Kriegsrechts im Gleichgewichtssystem des europäischen Völkerrechts in den formgebenden Jahren von 1815 bis 1874	01.09.2014	18.12.2021	6 years	Including 14,5 months practical training (Referendariat)

105

### DOCTORAL CANDIDATES IN THE PERIOD 2021–2023 (ONGOING):



### HABILITATION CANDIDATES IN THE PERIOD 2021–2023:



### POSTDOCS IN THE PERIOD 2021–2023:



### NUMBER OF EXTERNAL REVIEWS (PARTICIPATION IN DOCTORAL COMMITTEES AS EXAMINER) IN THE PERIOD 2021–2023:



A large, stylized number '4' in a teal color with a fine grid pattern, set against a solid teal background. The number is positioned in the upper half of the frame.

# **COOPERATIONS AND NETWORKS**



**THE** Institute cooperates with numerous partners in Germany and abroad, with other Max Planck Institutes, universities, and research institutions or with individual scholars. Directors and staff researchers participate in external research collaborations, project-related or in established networks, and teach at a large number of universities and other higher education institutions. Every year, many **visiting scholars** from all over the world participate in the Institute's academic life for shorter or longer periods of time, taking advantage of MPIL's resources and infrastructures, and enriching its research in turn. Many of them remain connected with the Institute as alumni and alumnae, through participation in conferences and other events, and through the newsletter, which is usually published four times a year.



Alexander von Humboldt scholarship recipients Prof. Dr. Roman Petrov and Dr. Anna Wójcik at the MPIL Monday Meetings



# ALEXANDER VON HUMBOLDT SCHOLARSHIP RECIPIENTS



**PROF. DR. MD JAHID HOSSAIN**

**01.05.2020–30.04.2022**

**01.05.2022–31.10.2022**

**01.11.2022–30.04.2023**

The Quest for National Identity:  
The Plight of Religious Minorities in Bangladesh



**DR. DONGYU SUN**

**15.11.2021–30.09.2022**

**01.10.2022–31.01.2023**

"One Country, Two Systems" from Sino-British  
Joint Declaration, Hong Kong Basic Law, to Hong  
Kong National Security Law



**DR. FRANCESCA IURLARO**

**01.06.2020–31.05.2022**

**01.06.2022–31.08.2022**

What to eat, and how to eat it right: natural law,  
animal and plants from the School of Salamanca  
to Samuel Pufendorf, 1539–1672



**PROF. DR. JULIANO ZAIDEN BENVINDO**

**04.04.2022–30.09.2022**

Rule of Law in Brazil: A Comparative Perspective



**DR. DANA SCHMALZ**

**01.08.2020–01.07.2021**

International Laws Perspectives on Population  
Growth: An Analysis and Theoretical Inquiry



**PROF. DR. ALIDA ANÉL DU PLESSIS**

**01.07.2022–30.09.2022**

Cities and Climate Change Law



**PROF. DR. BERTUS DE VILLIERS**

**11.07.2022–04.08.2022**

**19.07.2023–19.08.2023**

Navigating the unknown: Essays on selected  
case studies about the rights of minorities



**DR. KIRAN MOHAN VAZHAPULLY**

**04.11.2020–30.10.2021**

Reconceptualizing the Legal Framework  
for the Exploitation of Space Resources:  
Towards a Cosmopolitan Model



**PROF. DR. FLAVIA PIOVESAN**

**21.11.2022–20.12.2022**

**01.06.2023–30.06.2023**

Transformative Impact of the Inter-American  
System and National Mechanisms of Implementa-  
tion of International Human Rights Decisions



**DR. BERIHUN ADUGNA GEBEYE**

**01.12.2020–30.04.2022**

Constitutional reform and the making of  
the Ethiopian "Third Republic"?  
Federalism, citizenship, and democracy



**PROF. DR. MÓNICA ROCÍO MAZARIEGOS**

**RODAS**

**01.12.2022–31.01.2023**

Dialectics of the uses of Law and its  
contradictions in times of antiterrorism



**PROF. DR. BOGDAN IANCU**

**01.07.2021–30.09.2021**

Peripheral Crises of the Rule of Law:  
Incentives, Disincentives and Conceptual  
Shifts in EU Constitutionalism



**DR. CAIPHAS BREWSTERS SOYAPI**

**02.06.2023–30.06.2024**

Ecological proportionality within the South African  
judicial context



**DR. I GUSTI AGUNG MADE WARDANA**

**16.08.2021–15.08.2023**

**16.08.2023–14.07.2024**

The risk of protecting the environment:  
a Southeast Asian Perspective



**DR. ANNA WÓJCIK**

**04.10.2023–30.09.2024**

Discriminatory legalism in a backsliding  
democracy. The case of Poland

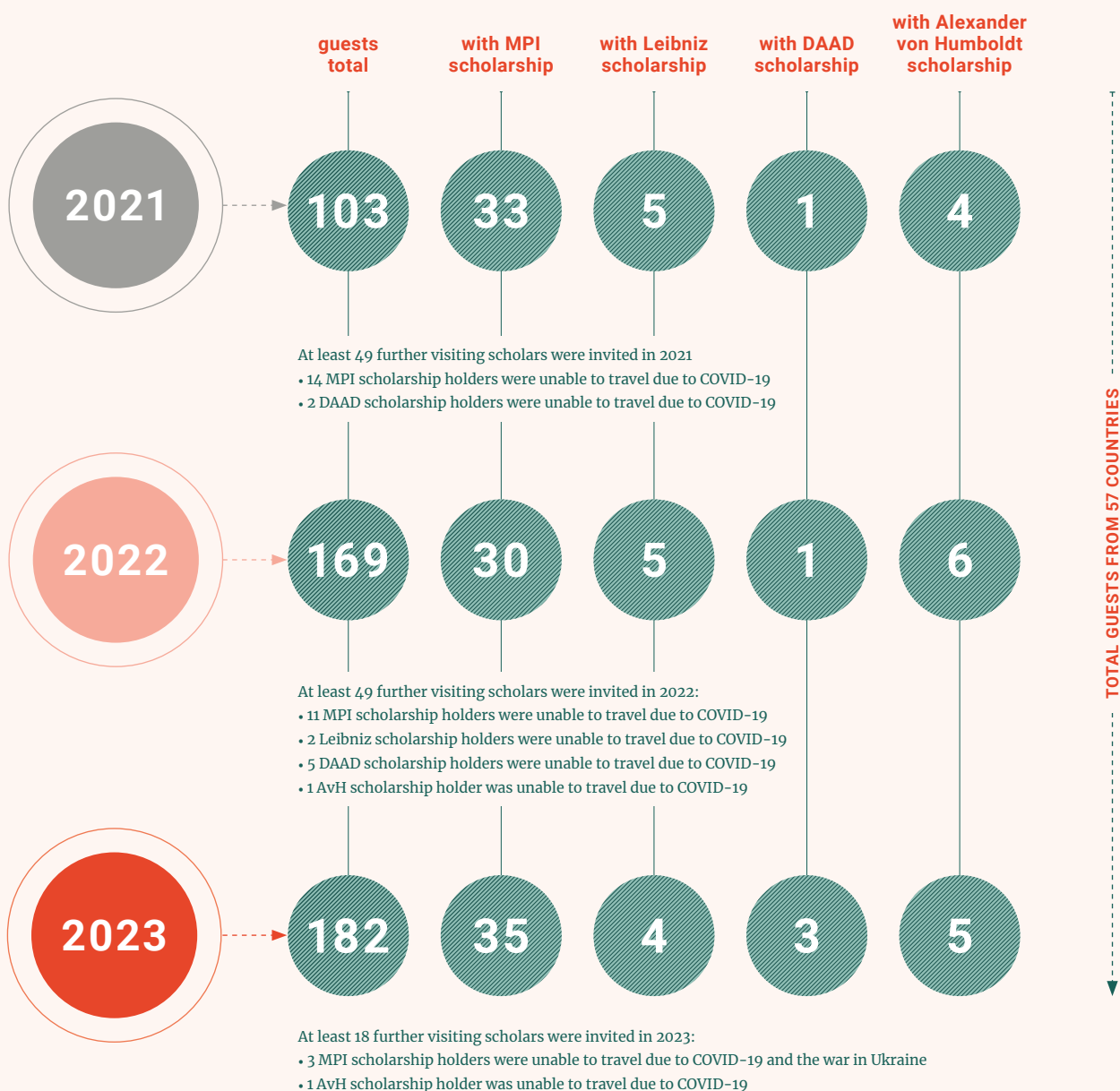


**PROF. DR. ROMAN PETROV**

**01.10.2022–30.09.2024**

Legal and Judicial and Political Challenges of  
Application of the EU Association Agreements within  
Non-Recognised Entities in Ukraine, Moldova and  
Georgia

# VISITING SCHOLARS IN THE PERIOD 2021–2023



## Research Cooperations

Armin von Bogdandy is honorary professor at Goethe-Universität Frankfurt am Main and cooperates closely with its **Department of Law**, with the **Research Centre “Normative Orders”**, the **Heidelberg University of Education**, and the **Faculty of Law at Munich University**. During the reporting period, he has held visiting professorships at the University of Pennsylvania Carey Law School and the Tel Aviv University. Moreover, intense academic cooperation also exists with the Catholic University of São Paulo, the Instituto de Investigaciones Jurídicas (Mexico City), the Universidad de los Andes and Universidad Externado de Colombia (both in Bogotá), the Bocconi University (Milan), the European University Institute (Florence), the Eötvös Loránd University (Budapest), the LUISS Guido Carli University (Rome), the Warsaw University of Social Sciences and Humanities, and the Vienna University of Economics and Business. Together with Mariela Morales Antoniazzi, he heads the **ICCAL academic network**, which currently links more than 600 academics and practitioners in Latin America with the Institute. He hosts the Heidelberger Gesprächskreis Verfassungsgerichtsverbund, a network of key judges and academics on European Constitutional issues, including the President of the Court of Justice of the European Union, the President of the Federal Constitutional Court, and the President of the Austrian Constitutional Court.

Anne Peters is an honorary professor at the universities of **Heidelberg**, **Freie Universität Berlin**, **Basel (Switzerland)**, and is a **L. Bates Lea Global Law professor at the University of Michigan Law School**. She is a member of the **Permanent Court of Arbitration** and an associate member of the **Institut de Droit International**. Anne Peters is a member of the advisory board for public international law at the German Foreign Office. From 2019 to 2023, she served as President of the **German Society of International Law (DGIR)**. During the reporting period, Anne has been a standing global professor at Peking University, held a visiting professorship at the university of Tel Aviv (spring 2023), and taught in the master programme Animal Law & Society at the Universidad Autónoma de Barcelona. With the Minerva Centers for Human Rights in Tel Aviv and Jerusalem, Anne co-organised (with **Julia Emtseva**) the project **“Transitional Justice in Israel and Palestine”** (from 2019 to 2023). During the same period, she delivered lectures and key notes around the world, due to the pandemic often held online, e. g., at the French Society for philosophy and legal and political theory (Université Toulouse), at the Adam Mickiewicz University Poznań, Poland (the Skubiszewski lecture), at Oslo University, at the Åland Islands Peace Institute (Helsinki), at the University of Tartu, the University of Tbilissi (Georgia), at the Hebrew University of Jerusalem, at the Jindal Global Law School (India), at the annual meeting of the American Society of Inter-

national Law (Washington D.C.), at the Brazilian Congress of International Law (Curitiba, Brazil), at the Constitutional Court of Korea, at the Japan International Dispute Resolution Center (Tokyo), and at the 11<sup>th</sup> World Congress of Constitutional Law (Johannesburg, South Africa)).

The Institute maintains close contacts with the Universities of Paris 1 Panthéon-Sorbonne and Paris 2 Panthéon-Assas and Sciences-Po; doctoral students are supervised in co-tutorial programmes. Since 2015, the Franco-German academic partnership **HeiParisMax** between the MPIL (organised by Anne Peters), the **Faculty of Law at Heidelberg University** and, on the French side, the **École de Droit de la Sorbonne (Paris 1)** and **Sciences Po** is in place – the first institutionalised Franco-German forum for doctoral and postdoctoral researchers in the relevant disciplines. In 2021–2023, a series of online seminars and a **conference at Sciences Po Law School** offered young academics the opportunity to expand their Franco-German networks. **Evelyne Lagrange** (Paris 1) has been an External Academic Member of the Institute since 2015. The aim of the partnership is to enable young academics (doctoral students and postdocs) to undertake a research stay on the other side of the Rhine as unbureaucratically as possible.

Intensive contacts are also maintained with the **European University Institute (EUI)** in Florence. The MPIL has been an institutional member of the **European Society of International Law (ESIL)** since 2014 and has its own book table at its annual conferences.

In the research area of Global Animal Law, Anne Peters cooperates with the **Animal Law & Policy Program at Harvard Law School**.



Summer Seminar 2022  
with Karen Knop (†)



Since 2019, the MPIL actively participates in (and benefits from) **Max Planck Law**, a network of nine (until 2023 ten) Institutes engaging in legal research within the Max Planck Society, jointly operating the world's largest programme for doctoral and post-doctoral research in law. Max Planck Law offers a wide range of career development opportunities and research initiatives facilitating inter- and interdisciplinary exchanges and research, such as the **Initiative on 'Law, Health, and Life Sciences'** co-organised by the MPIL's **Pedro Villarreal**. The Institute is currently hosting two Max Planck Law Fellow Groups, headed by **Antoine Vauchez** and **René Uruña** with Armin von Bogdandy as nominating director.

The Max Planck Law Fellow group "**The State of/in International Relations-New Foreign Relations Law between Public International Law and Conflict of Laws**" was led by Max Planck Law Fellow Professor **Karen Knop (University of Toronto)**, in collaboration with Anne Peters and Ralf Michaels (MPIPRIV) as nominating directors. This Fellow group organised a summer seminar on "Populism and the New Foreign Relations Law: Between Public International Law, **External Public Law, and Conflict of Laws**" (2022) in which 20 doctoral and post-doctoral candidates participated. The fellow group ended prematurely with Karen's sudden passing in 2022.

# MAX PLANCK LAW FELLOW GROUPS

## INDEPENDENCE AND DEMOCRACY IN THE EUROPEAN UNION: A HISTORICAL AND SOCIO-LEGAL APPROACH

Over the past decade, “independence” has become a central yet ambiguous concept in Europe’s transnational politics. Institutions like the CJEU, the European Commission, constitutional courts, central banks, governments, and regulatory agencies have engaged in debates over its meaning, scope, and counter-balancing principles (democracy, accountability, transparency). Recently, populist constitutionalism and the growing role of central banks have expanded the “independence wars” to new policy domains, challenging democratic definitions at national and European levels.

This project bridges the history of legal concepts with socio-legal analysis of European legal fields. The first research strand is historical, exploring how “independence” has gained prominence within the EU and national legal fields since the 1970s, particularly during the enlargement of Central and Eastern Europe in the 1990s. The second strand is socio-legal, examining the politicisation of “independence” and its impact on various policy fields over the past two decades.

The group is led by **Professor Antoine Vauchez**, with researchers from the MPIL and the **MPI for Legal History and Legal Theory**, under the direction of professors **Armin von Bogdandy** and **Stefan Vogenauer**.

For more details, see the **report** and watch the **video**.

## COMMUNITIES OF PRACTICE AND THE TRANSNATIONAL PRODUCTION OF HUMAN RIGHTS KNOWLEDGE IN LATIN AMERICA

The Group uses “communities of practice” to advance the understanding of the role of human rights in the Ibero-American legal space, both historically and in contemporary practices. The Group has built a network of Latin American scholars, judges, civil servants, and activists. Key initiatives include

- Intensive Winter Schools: Held in December 2022 and 2023, these schools focused on human rights, expert knowledge, and transformative constitutionalism. They offer lectures, discussions, writing and skills schools, methods seminars, and “Meet to Inspire” sessions.
- Workshop “Resistances in Central America: Human Rights Strategies”: Held in November 2023, this workshop focused on democratic resistance in Central America, discussing strategies at the intersection of political opposition and legal mobilisation.
- Workshop “Climate Emergency and Transformative Constitutionalism in Latin America: Lessons and challenges for the Global South”: This workshop addressed the climate emergency and human rights law in Latin America, examining ways transformative constitutionalism can mitigate climate change effects.
- Discussion Panel, Max Planck Law Annual Conference 2023 “A Distant War? Latin America, International Law, and Russia’s War Against Ukraine”.

The group is headed by **René Urueña** and brings together researchers from the MPIL and the **Max Planck Institute for Legal History and Legal Theory** under the direction of Professors **Armin von Bogdandy** and **Thomas Duve**.

For more information, visit **René Urueña’s Max Planck Law website** and watch **this video**.

## DISCUSSION GROUPS

In addition to its weekly plenary meeting, the traditional **Monday Meeting**, and the directors' **Research Seminars**, the Institute hosts a number of subject and language-specific **Discussion Groups**. They offer the opportunity to discuss fundamental questions and current developments in small groups.

The **MPIL Agora** is the dedicated forum for visiting scholars to present and discuss their current research with other visiting scholars and permanent staff at the Institute. The Agora generally takes place once a month and consists of one or two modules. Each module lasts one hour and includes a lecture (approximately 30 minutes) plus subsequent discussion. The Agora is curated by **Armin von Bogdandy** and **Malcolm Jorgensen**.

The Spanish-language **Coloquio Iberoamericano**, founded in February 2004 and curated by **Mariela Morales Antoniazzi**, is an interdisciplinary group providing a framework for exchange of ideas between staff researchers and visiting scholars on selected topics. The colloquium aims to promote research projects carried out by the participants, as well as to support incoming Ibero-American researchers through exchange of research experiences, in particular those related to German academic standards. Staff researchers have an opportunity to become acquainted with Latin American and/or Spanish academic argumentation.

Since 2014, the **Dialoghi Italiani** have been enriching the scholarly debate within the Max Planck Institute, by providing an opportunity to discuss current political and legal issues concerning Italy. Dialoghi Italiani welcome all those who are interested in Italian history and current institutional and political developments. The working language is Italian, but questions and comments in English are welcome. Current coordinators are **Laura Hering** and **Paolo Mazzotti**.

Since its inaugural session in 2014, the **Forum Francophone**, coordinated in 2021–2023 by **Carolyn Moser**, **Leon Seidl**, **Paolo Mazzotti** and



**Moritz Vinken**, has met approximately every two months to discuss current political and legal issues, including those outside Europe, on the basis of a text introduced by the speaker. The common thread running through all the presentations at the forum is the French language – any topic can be dealt with that affects French-speaking countries in Europe, Africa, and the entire French-speaking world. The broad thematic and geographical agenda includes presentations on international and European law, as well as constitutional and administrative law.

The **Discussion Group on Human Rights**, currently organised by **Marie Lohrum**, provides an opportunity for mutual exchange among staff researchers and visitors on selected topics and current developments in the field of national, regional, and international protection of human rights, as well as institutional aspects of human rights protection. Both universal and regional human rights protection with a special focus on European and other multi-level systems constitute the group's main interest.

**Theory Talks**, a discussion group founded in 2018 by **Silvia Steininger** and **Tom Sparks** and run in the reporting period by the founders together with **Francesca Iurlaro** (Alexander von Humboldt Fellow), provides a forum for research fellows and visiting scholars of the Max Planck Institute to discuss questions relating to legal, political, and moral theory. The seminars normally take place once a month and include a short introductory talk (10–15 minutes) followed by a general discussion. Each seminar focusses on a new publication, a classic text, or a current development.



MPIL Master Class with Daniel Halberstam, May 2023

Alumni Meeting with walk on the Philosophenweg 2021



## LECTURES, WORKSHOPS, SPECIAL EVENTS

Throughout the year, academic and intellectual life at MPIL is shaped and enriched by a large number and variety of **events** that provide fora for lectures and presentations, spaces for conversations and encounters, and opportunities for networking and exchange.

Since 2012, an annual **Max Planck Master Class in International Law** has been held at the Institute, offering an opportunity for intensive dialogue and interaction with renowned scholars over three or four consecutive days. In 2022, the 9<sup>th</sup> MPIL Master Class was held with Professor H el ene Ruiz Fabri (Universit e Paris 1 Panth eon-Sorbonne / Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law), on "The Fate of International Courts". In 2023, the 10<sup>th</sup> MPIL Master Class was held with Professor Daniel Halberstam (University of Michigan Law School), titled "From Madison to Trump – US Constitutional Law in the Light of Current Developments".

An integral part of each Master Class is traditionally a public event with the respective "masters", to be held in cooperation with and at the **DAI Heidelberg**. In addition to the public evenings with H el ene Ruiz Fabri and Daniel Halberstam, the DAI hosted, in 2023, an evening with Marta Cartabia and Armin von Bogdandy, on "Constitutional Courts in Democracies: Italy, Israel, Poland, and Hungary".

In MPIL's biannual **Karl Doehring Lecture Series**, Frank Schorkopf (G ttingen) spoke about "Menschenrechte und die Mehrheit" (2021), and Christian Calliess (FU Berlin) on "Die Autorit t des Rechts in der Europ ischen Union" (2023). The 4<sup>th</sup> **Rudolf Bernhardt Lecture** (2022) was given by Marie-Cath rine Petersmann ("Towards More-than-Human



Armin von Bogdandy and Anne Peters speak at the Alumni Meeting 2023



Rights? From the 'Living Constitution' to the 'Constitution of the Living'). All three festive lectures were also the opening events for our 14<sup>th</sup>, 15<sup>th</sup>, and 16<sup>th</sup> **Alumni Meeting**, which brought a number of former research fellows and visiting scholars to Heidelberg to interact with current research staff, enjoy a walk on the Philosophenweg, and to listen to a report on events and research at MPIL and to a practitioner's lecture given by an alumnus or alumna with a focus on her personal career development and professional experience.

On 27<sup>th</sup> October 2022, an **academic commemoration event** was held in honour of Professor Rudolf Bernhardt (1925–2021), director emeritus at the Institute.

The **Max Planck-Cambridge Prize for International Law (MaxCamPIL)**, established in 2018 with generous donations of the Max Planck Society's Supporting Members and awarded every two years jointly by MPIL and the Lauterpacht Centre for International Law (LCIL) at the University of Cambridge, has been awarded, in 2021, to **Sundhya Pahuja** (Melbourne University Law School) and, in 2023, to **Emily Crawford** (University of Sydney Law School). Following the 2022 award ceremony in Cambridge, Sundhya Pahuja visited the Institute in the summer of 2023, and hosted an international workshop "**Global Corporations and International Law**" (in collaboration with **Anne Peters** and **Alexandra Kemmerer**) from 13<sup>th</sup> to 14<sup>th</sup> July 2023. The award ceremony for Emily Crawford took place on 23<sup>rd</sup> November 2023 at MPIL.

116 *Max Planck-Cambridge Prize Workshop with Sundhya Pahuja, July 2023*



*Professor Emily Crawford, recipient of the Max Planck-Cambridge Prize for International Law 2023*



In September 2021, Armin von Bogdandy hosted an **Authors' Workshop "Unionsverfassungsrecht"** (with Jürgen Bast); and, in April 2022, a high-level meeting of the **"Heidelberger Gesprächskreis Europäischer Verfassungsgerichtsverbund"**.

In April 2022, Anne Peters hosted the **German-Israeli Minerva School "International Human Rights Law and the Individual"** and, in June 2022, the Summer School **"Populism and The New Foreign Relations Law"** (with Karen Knop and Ralf Michaels). In 2023, the **"Global Seven"** (a group of seven scholars from all continents) met in Berlin for interviews on methods and approaches in international legal scholarship (Anne Peters, Alexandra Kemmerer, and Laura Kraft). Anne Peters also hosted (with Tom Sparks) the authors' workshop that led to the book **"The Individual in International Law"** (OUP 2024), co-organised in total three authors' workshops for the **Oxford Handbook on Global Animal Law** (with Saskia Stucki and Kristen Stilt), and the workshops that lead to the **Max Planck Triologue volumes 4 and 5**.

The **37<sup>th</sup> Biennial Conference of the German Society of International Law** took place in Heidelberg on 9<sup>th</sup>–11<sup>th</sup> March 2022 on the topic **"Abkehr vom Multilateralismus – Internationales Recht in Gefahr?"** under the Presidency of Anne Peters, with a welcome by Armin von Bogdandy. It included an ad hoc panel on the Russian invasion of Ukraine.

A large number of further **workshops, conferences and lectures** organised by the directors, research group leaders, Max Planck Law Fellows, and individual researchers took place at the Institute during the reporting period. Numerous events were held, in Heidelberg and beyond, under the umbrella of the **ICCAL network**.

In addition, **MPIL's Berlin Office** hosted a wide range of digital and in-person events, in its **Heidelberger Salon** and **MPIL Momentum** series, but also in tailor-made formats of various kinds, from panel discussion to workshop events.



*Anne Peters, Eva-Maria Kieninger, Stephan Hobe (eds), **Abkehr vom Multilateralismus: Internationales Recht in Gefahr?** (Berichte der Deutschen Gesellschaft für Internationales Recht 51, C.F. Müller, 2023)*



*German-Israeli Minerva Summer School in Strasburg, April 2022*

The image features a light orange background with a fine grid of small white dots. Overlaid on this are several geometric shapes: a large, tilted rectangle with a diagonal grid pattern of white lines and dots, a solid light orange rectangle, a large solid orange circle, and a smaller solid light orange circle. The text 'KNOWLEDGE TRANSFER' is centered in the lower half of the image, overlaid on the light orange circle.

# KNOWLEDGE TRANSFER





120



## KNOWLEDGE TRANSFER

### Publication Formats

#### SCHWARZE REIHE

The "**Schwarze Reihe**" (Contributions on Comparative Public Law and International Law) is the Institute's flagship publication series founded by Viktor Bruns and published under the responsibility of **Armin von Bogdandy** and **Anne Peters**. It focuses on advanced research in international and comparative public law. The series features work by renowned scholars and provides a platform for in-depth legal analysis. In the period 2021-2023, 20 books were published in this series, ranging from the publication of carefully selected PhD theses to "**Remedies against Immunities**" (2021) edited by Valentina Volpe, Anne Peters, and Stefano Battini, and "**Transition 2.0: Re-establishing Constitutional Democracy in EU Member States**" (2023), edited by Michal Bobek, Adam Bodnar, Armin von Bogdandy, and Pál Sonnevend.

### ZAÖRV / HJIL

The **Zeitschrift für ausländisches öffentliches Recht und Völkerrecht** (ZaöRV) / Heidelberg Journal of International Law (HJIL) is the Institute's bilingual flagship journal first published in 1929. From 2021 to 2023, 12 issues of the journal were published diamond open access, i.e., without charging authors or readers for the publication or use. The journal's commitment to open access ensures that its publications are readily available to a global audience, further enhancing its impact on the legal academic community. As of 2022, the journal is indexed with Scopus, in turn increasing its visibility around the globe. Since January 2023, **Robert Stendel** has acted as Managing Editor, succeeding **Rainer Grote**. **Carolyn Moser** is acting Comment Editor, with **Richard Dören** as acting Book Review Editor.

### MPIL RESEARCH PAPER SERIES

The **MPIL Research Paper Series** is a platform for disseminating advanced research in international law, comparative public law, and European Union law. Between 2021 and 2023, the series published 78 papers, showcasing the scholarship produced by the MPIL. This series serves as a resource for legal scholars, practitioners, and policymakers, providing access to experimental research and fostering scholarly communication. **Angelo Jr Golia** served as Editor-in-Chief of this publication format until July 2022 and has been followed by **Moritz Vincken**.

### JHIL

**The Journal of the History of International Law** (JHIL) / *Revue d'histoire du droit international* is an interdisciplinary platform for exploring historical issues in international law, with a broad outreach to scholars in related fields. Between 2021 and 2023, it published 12 issues. The journal is led by Editor-in-Chief **Anne Peters** and Managing Editor **Raphael Schäfer**. JHIL operates an open-access strategy to ensure wide accessibility. From 2024, the JHIL will also work to increase public outreach with its own podcast, "**Voices of JHIL**", hosted by Raphael Schäfer and Inge Van Hulle.

### MPEPIL

In 2021 the **Max Planck Encyclopedia of Public International Law** (MPEPIL), which was published under the editorship of Rüdiger Wolfrum from 2008–2020, returned from the Max Planck Foundation for International Peace and the Rule of Law to the MPIL. Between 2021 and 2023 the MPEPIL, under the leadership of General Editor **Anne Peters** and Managing Editor **Margrét Sólveigardóttir**, published 181 new and updated entries. This major online reference work contains roughly 1,760 peer-reviewed entries on every aspect of the substance of public international law and is continuously being updated and extended.

### RUSSIAN DIGEST

In the reporting periods, the Institute continued to publish the Russian Digest on international, European, and comparative public law. **Tigran Beknazar** translated 24 contributions that were considered of particular relevance for the Russian speaking world. We count 9856 website views and 1695 downloads in the reporting period.

### MPIL100

Launched in November 2023, the MPIL Centennial Blog "**MPIL100**" seeks to facilitate an inclusive, dynamic, and interconnected form of **multi-perspective historiography** and its transmission. With **Philipp Glahé** and **Alexandra Kemmerer** as editors, "MPIL100" aims to reflect the Institute's history.



## Research Communication, Public Outreach, Media and Fora

### MAKING (INTERNATIONAL) LAW PUBLIC

In 2021-2023, the Institute further expanded the MPIL's communications strategy "**Wissenschaft in Öffentlichkeit(en)**" (Scholarship in Public), developed since 2015 by its transfer and communications team under the leadership of **Alexandra Kemmerer**, the Institute's academic coordinator and head of its Berlin Office. The **strategy** provides a framework, advice, and support structures for researchers engaging with the media and communication partners while maintaining their autonomy and integrity. Researchers **contributed to public discourse** through media contributions, new event formats, blog presence, public lectures, interviews, and podcasts. The institute was present in leading German and European newspapers, weeklies, and magazines, in radio, television, and online media.

As the Institute's communications representative, Alexandra Kemmerer leads our **communication team** and is responsible for MPIL's communications strategy and the development and implementation of the various formats, and advises the directors and individual colleagues on communications issues. Until his retirement in September 2023, **Matthias Hartwig** served as the Institute's spokesperson, answering media enquiries himself or liaising with colleagues in the institute with relevant expertise. In October 2023, **Áine Fellenz** joined the Institute in the newly established position of a "Science Communications Officer", marking a further professionalisation of MPIL's communications efforts.

### MEDIA AND FORA

The Institute's research communication and public outreach has a broad range of **media and fora**. Since 2015, the Institute has been active on Twitter/X with the account **@MPILheidelberg**, connecting with scholars, research institutions, publishers, universities, alumni, media, and politics. By December 2023, the account had almost 12,000 followers, making it one of the top accounts among MPG institutes. In light of the possible risks e.g., for privacy or academic freedom arising from the sale of Twitter/X, the team set up a **Bluesky** account in October 2023, where it cross-posts content from Twitter/X. We thus possess an alternative form of digital outreach, and other channels are also being examined. The social media activities were supported by a team of student assistants (Katharina Faber, Áine Fellenz, Paula Hellmund, Thea Kruse, Clara Schweinbach, Malte Spielmann).

The team ensures responsive communication, prepares tweets, and develops social media strategies for projects and events. The Institute's activities, publications, awards, and job postings were regularly shared, with followers directed to the website for more detailed information.

The Institute also continued to develop its audio and video formats on **YouTube** and **Vimeo**, supported by the Berlin Office (Paula Schwarze). By December 2023, 78 videos had been published to the Youtube channel with over 600 subscribers gained. The content includes MPIL Lecture, MPIL Impulse, and MPIL Event series, along with contributions from Institute members presented in other contexts (ExtraMPIL).

From October 2022 until July 2023, an 8-part lecture series "**UKRAINE?! - INTERNATIONAL LAW ON THE BRINK?**" was organised in co-operation with the Württembergische Landesbibliothek Stuttgart (Württemberg State Library Stuttgart), with an opening lecture by Anne Peters, followed by presentations by Florian Kriener, Alexander Wentker, Silvia Steininger, Alexandra Kemmerer, Roman Petrov, Carolyn Moser, and Raphael Schäfer.

The Heidelberger Gesprächskreis Verfassungsgerichtsverbund provides a forum for knowledge transfer with key judges at European and national constitutional courts on current events (see p.16).

The Ius Constitutionale Commune en America Latina consists of a network of more than 600 persons, including judges, politicians, public officials, lawyers, activists, and journalists, who play a role in making democratic constitutional law a reality in the difficult Latin American environment (see p.17). The project has developed online materials for teaching ICCAL and distributes them via its **website**.

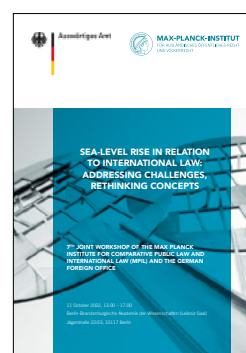
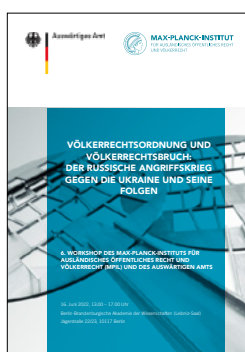



 Berlin Office Team

## BERLIN OFFICE

With its **Berlin Office** at the Wissenschaftsforum am Gendarmenmarkt, the Institute is present at its historic founding site since 2015. In dialogue with other academics, representatives of politics, government, legal practice, business, culture and the media, lawyers, ministerial officials and diplomats (including numerous alumni and alumnae), the Institute benefits from the dynamism of Berlin as a centre of global knowledge production. During the reporting period, the head of the Berlin Office was supported by Lisa Pitz, Laura Kraft, Jakob Hach, Seliem El-Sayed, Malte Spielmann, Paula Schwarze, Jonas Simeon, and Chiara Rimkus.

In its series of confidential **Joint Workshops of the Max Planck Institute for Comparative Public Law and International Law and the Federal Foreign Office**, the Berlin Office hosted a Fifth Workshop on **“China and International Law”** (2021), a Sixth Workshop on **the international legal order in the aftermath of the Russian aggression against Ukraine** (2022), a Seventh Workshop on **“Sea-Level Rise in International Law”** (2022), and an Eight Workshop on **“Feminist Foreign Policy and Feminist International Law”** (2023).



In the **MPIL Momentum Series**, a forum to introduce topical research from the Institute to a wider public, we curated Book Conversations on Christoph Krenn's "**Procedural and Organizational Law of the European Court of Justice. An Incomplete Transformation**" (CUP 2022), on Janne Mende's "**Der Universalismus der Menschenrechte**" (UTB 2021), and on Sergio Dellavalle's "**Paradigms of Social Order**" (Springer 2021).

The **Heidelberger Salon Series**, with its intimate setting for in-depth discussions on contemporary legal and political issues, featured debates on "**Checks and Balances in EU Member States**", on "**Vaccine Nationalism, Distributive Justice and Global Health Law**", "**Welt(un)ordnung und Internationales Recht**", "**The Role of Law in the Age of Environmental Crises**", and "**Who is the Guardian of Free Speech? Meta's Oversight Board and (other) Courts and Dispute Resolution Mechanisms**".



8th Joint Workshop MPIL-AA,  
Feminist Foreign Policy and Feminist  
International Law, 2023



MPIL Momentum Book  
Conversation with Christoph  
Krenn, November 2023

Other events, in cooperation with local partners such as Humboldt University and the Social Science Centre Berlin (WZB), provided opportunities for encounters and discussions – about Armin von Bogdandy's **European Society, European Republicanism**, and on the Crises and Transformations of EU Law. Additionally, the Berlin Office serves as liaison to the Verfassungsblog and Völkerrechtsblog.

### MPIL JOURNALISTS IN RESIDENCE

The **MPIL Journalist in Residence Fellowship**, established in 2019, offers journalists a stay at the Institute to pursue research and engage with researchers. The fellowship, open to both staff and freelance journalists covering law, politics, society, economics, science, and the humanities, provides research grants and access to Institute resources. During the reporting period, the Institute welcomed six Journalists in Residence from diverse backgrounds, selected from a highly competitive pool of almost 200 applications per year, working on a wide variety of projects. Christian Jakob, Alexander Borodikhin, Rishika Pardikar, Jacob Kushner, Letícia Casado, Olha Konsevych, and Hannah El-Hitami engaged with MPIL scholars, attended and took part in various MPIL events, and conducted their own research.



125



**MPIL Journalists in Residence**  
2020 and 2022 : Christian Jakob, Rishika Pardikar, and Jacob Kushner

**MPIL Journalist in Residence**  
2022 Alexander Borodikhin



# BOARDS



# ADVISORY BOARD AND BOARD OF TRUSTEES



## Advisory Board

---

**THE ADVISORY BOARD CURRENTLY  
CONSISTS OF THE FOLLOWING PERSONS:**

**PROF. DR. INGRID BRUNK**

Vanderbilt University, Nashville, TN

**PROF. DR. JUTTA BRUNNÉE (CHAIR)**

University of Toronto

**PROF. DR. AURORE GAILLET**

University of Toulouse

**PROF. DR. JOSÉ MARTÍN Y PÉREZ  
DE NANCLARES**

University of Salamanca

**PROF. DR. SARAH NOUWEN**

European University Institute, Florence

**PROF. DR. MATTHIAS RUFFERT**

Humboldt University of Berlin

**PROF. DR. ALEXANDER SOMEK**

University of Vienna

**PROF. DR. CHRISTIAN WALTER**

Ludwig-Maximilians-University, Munich



## Board of Trustees

---

### THE BOARD OF TRUSTEES CURRENTLY CONSISTS OF THE FOLLOWING PERSONS:

**DR. KURT BOCK**

Chairman of the Supervisory Board of BASF

**PROF. DR. LORI FISLER DAMROSCH**

Columbia University Law School

**PROF. DR. STEPHAN HARBARTH**

President of the Federal Constitutional Court (Chair)

**PROF. DR. KOEN LENAERTS**

President of the Court of Justice of the European  
Union

**DR. REINHARD MÜLLER**

Frankfurter Allgemeine Zeitung

**PROF. DR. GEORG NOLTE**

Judge at the International Court of Justice

**PROF. DR. DARIA DE PRETIS**

Former judge at the Italian Constitutional Court

**TANIA FREIIN VON USLAR-GLEICHEN**

Federal Foreign Office, Head of the Legal Department

**PROF. DR. MARGRET WINTERMANTEL**

Chairwoman of the University Council of the Univer-  
sity of Würzburg

**PROF. DR. ECKART WÜRZNER**

Lord Mayor of the City of Heidelberg

**PROF. DR. CHIARA ZILIOLI**

Director General, European Central Bank

# Imprint

---

## **PUBLISHED BY**

**Armin von Bogdandy**  
**Anne Peters**

Max Planck Institute  
for Comparative Public Law  
and International Law  
Im Neuenheimer Feld 535  
D-69120 Heidelberg

## **EDITORS**

Áine Fellenz  
Alexandra Kemmerer

## **DESIGN AND LAYOUT**

mattweis GmbH, München

## **PRINT**

BLUEPRINT AG, München

## **PHOTO CREDITS**

MPIL  
Maurice Weiss  
Hannah Wilson

## **COPYRIGHT**

© Max Planck Institute  
for Comparative Public Law  
and International Law  
An Institute of the Max Planck Society







