
Constructing and

Legitimizing: Transnational

Jurist Networks and the

Making of a Constitutional

Practice of European Law,

1950–70

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Abstract

Social scientific explanations of the role of European law associations in the making of a new European legal order argue that they were critical in empowering the European Court of Justice and defining the results of European legal integration. However, these approaches fail to highlight the complex context in which these associations evolved. By exploring the history of the French Association des juristes européens from 1951 to 1970 on the basis of comprehensive archival material, this paper provides a more contextualised understanding of what appears as a struggle with limited impact on the French reception of European law.

The role played by a developing transnational legal academy in the formation of Europe's constitutional practice of law has generally been overlooked, despite the traditional influence of expert opinion on the continental judiciary.¹ Two social scientists, Karen Alter and Antoine Vauchez, have recently analysed the impact of the European Law Associations (ELA), including the umbrella organisation, the Fédération internationale pour le droit européen (FIDE).² Their conclusions are

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I would like to thank Morten Rasmussen and Bill Davies for the help and support they have kindly provided.

¹ Antoine Vauchez, 'The Force of a Weak Field: Law and Lawyers in the Government of the European Union (For a Renewed Research Agenda)', *International Political Sociology*, 2, 2 (2008), 128–44.

² Karen Alter, *The European Court's Political Power* (Oxford: Oxford University Press, 2009), 66; and Antoine Vauchez, 'The Making of the European Union's Constitutional Foundations: The Brokering Role of Legal Entrepreneurs and Networks', in Wolfram Kaiser, Brigitte Leucht and Michael

striking. According to Vauchez, FIDE became a centralised transnational network, providing academic and professional entrepreneurs with a brokering role at the European level and the chance to co-ordinate efforts with the Commission and European Parliament to empower the European Court of Justice (ECJ).³ Likewise, Alter found that the ELA ‘critically defined what European legal integration became’,⁴ enabling crucial test cases to come to the ECJ, organising conferences and seminars to spread ECJ doctrine and building support among national justices in favour of the constitutional practice. They did so – the argument goes – mainly due to the significant social and political capital of its members, who, by serving in multiple government, academic and legal roles, were able effectively to promote the new European legal order.⁵ Both authors mainly focus on the impact of FIDE and the ELA at European level, however.

This article will seriously question these conclusions. The history of the French Association des juristes européens (AJE) from 1951 to 1970, as revealed in new archival documentation drawn from both the association itself and from recently opened private archives, leads to a deeper and significantly more contextualised understanding of the first and most important ELA, which crucially includes the impact at both the European and national level.⁶ It will demonstrate that despite the AJE having a significant number of high-profile politicians, judges and academics among its members, the impact of the association on the French reception of European law before 1970 was minimal. In the 1950s the AJE was a small and insignificant association. When it finally expanded its membership and increased its activities after 1958, the new Gaullist Fifth Republic made it almost impossible to promote the general acceptance of European law in the French state and judiciary. This delayed French acceptance of the constitutional practice until the 1970s. Significantly, the AJE’s membership contained many high-profile members of the Fourth Republic, which made it even more difficult to influence the new Gaullist elite after 1958. At the European level, the AJE fared somewhat better driving the foundation of FIDE, which proved useful to the general mobilisation of the European institutions in support of the ECJ after 1963. It will be argued that FIDE, besides facilitating the production of a number of crucial test cases to the ECJ, mainly provided academic legitimisation for the court. The article deals first with the origins of the AJE in the 1950s, then the foundation and development of FIDE from 1961 onwards, and it

Gehler, eds, *Transnational Networks in Regional Integration: Governing Europe 1945–83* (London: Palgrave Macmillan, 2010); Antoine Vauchez, ‘The transnational politics of judicialisation: Van Gend en Loos and the making of EU polity’, *European Law Journal*, 16, 1 (2010), 1–28.

³ Vauchez, ‘Brokering Role’, 11, 124 and Vauchez, ‘Van Gend en Loos’ for a very refined analysis of Van Gend en Loos and *Costa v. ENEL*.

⁴ Alter, *European Court*, 73.

⁵ Alter, *European Court*, 82; Vauchez, ‘Brokering Role’, 123–4.

⁶ Archives of the AJE, 60 rue Pierre Charron 75008 Paris; Quarterly publications of the AJE, Bibliothèque Nationale de France, Paris; the Historical Archives of the European Commission, Brussels; the archives of the French Ministry of Justice, private archives of Michel Gaudet, Fondation Jean Monnet pour l’Europe, Lausanne, Archives de Michel Gaudet (AMG), Chronos.

concludes with an analysis of the role and impact of the AJE in France during the 1960s.

The foundation and consolidation of the Association des juristes européens, 1952–1961

During the winter of 1952–53, excitement prevailed within the European Movement: the institutions of the European Coal and Steel Community (ECSC) had only recently been launched and for jurist and professor of political economy André Philip,⁷ the most important matter now was to fortify the European construction on the basis of European law.⁸ First, it was necessary to bring together a body of European-minded jurists to work on the project. Philip based his hopes on a pre-existing circle of Parisian jurists founded in early 1951 by three lawyers of the Paris Cour d'Appel: his childhood friend Maurice Rolland, Gérard Rosenthal and Michel Libersa.⁹ This narrow circle, with neither foundational statutes nor any kind of financial base, bore the name of Association des juristes européens.¹⁰ During a founding meeting at the *Palais de Justice* in Paris at the end of 1952, the four met with two colleagues from the European Movement, René Courtin¹¹ and Germaine Peyroles,¹² to define the purpose of the AJE.¹³ Other colleagues of the European Movement would lend 'crucial support' to the AJE throughout the 1950s.¹⁴ These others included René Mayer,¹⁵ Paul-Henri Spaak,¹⁶ Fernand Dehousse¹⁷ and Arthur Calteux.¹⁸

This new association aimed

to bring together and organise the jurists of the various countries of Europe attached to the European idea, for the joint study of the problems of public and private law which the development of the

⁷ Unfortunately, the private archive of Philip at Archives Nationales in Paris does not hold any information on his role in AJE. I would like to thank Morten Rasmussen for this information.

⁸ In the Council of Europe in 1948, he had already advocated the broad outlines of what would become the Schuman Plan. See Paul Ricœur, 'André Philip, économiste, protestant et socialiste', in Christian Chevandier and Gilles Morin, eds, *André Philip, socialiste, patriote, chrétien* (Paris: IGPDE, 2005) 1–3. See also André Philip, 'Fondements d'un droit européen', *Evidences*, 34 (1953), 8–10.

⁹ *Bulletin de l'Association des juristes européens (AJE bulletin)*, 33–34 (1971), 139.

¹⁰ *AJE bulletin*, 27–28 (1967), 5; 38 (1978), 15.

¹¹ Courtin, like Philip, was a professor of political economy at the Faculté de Droit et des Sciences Economiques de Paris (Université Paris-1 Panthéon-Sorbonne since 1971) (Paris Faculté de Droit).

¹² At this point former vice-president of the Assemblée Nationale (1947–51), she was also a lawyer of the Paris Cour d'Appel.

¹³ According to Alter, Pierre-Henri Teitgen who was then president of the Mouvement Républicain Populaire, was also one of the founders of the AJE. See Alter, *European Court*, 66. The archival record of the AJE remains unfortunately silent about this issue.

¹⁴ *AJE bulletin*, 13–14 (1963), 58; 17–18 (1964), 4; 38 (1978), 15–16. Translations of quotes from French articles and documents cited in the text and notes are my own.

¹⁵ The president of the French Conseil des Ministres (1953) and later of the High Authority (1955–1958).

¹⁶ Belgian politician and author of the Spaak report leading to the Treaties of Rome.

¹⁷ European federalist and law professor.

¹⁸ Luxembourg High Court judge and vice-president of the European Union of the Federalists (EUF).

European Community poses, and for the purpose of bringing to the latter any legal help it may need.¹⁹

This broad remit was undoubtedly due to the fact that even in a domain as new as European integration the leaders of AJE wanted the grouping to appear just like a traditional apolitical legal association, able to host specialised jurists eager to invest time and resources in European law. The official birth of the association was on 22 June 1954, when the group – lawyers through and through – completed all the formal acts of compliance and made a deposition of the statutes to the police headquarters in Paris.²⁰ An announcement followed in the *Journal Officiel* of 13 July 1954.²¹

The AJE enjoyed only a very modest start. Rolland and Adolphe Touffait, his colleague from AJE and the Paris Cour d'Appel, remembered a rather small audience at the founding meeting back in the winter of 1952. While there was a second more successful meeting in 1954,²² the subsequent demise of the European Defence Community in the Assemblée Nationale did not help the fortunes of the young association. It was only after 1958 that the AJE acquired a certain momentum both in terms of membership and in organisation, largely due to the addition of large groups of members from two associations of comparative law, the Association pour les Echanges entre Juristes Français et Allemands (AJFA)²³ and Libre Justice.²⁴ The successful strengthening of the AJE was symbolised in late May 1958 by a large public conference on European rural law at the *Salle des Agriculteurs*, rue d'Athènes in Paris, where talks by Philip, Georges Vedel, dean of the Paris Faculté de Droit and Robert Marjolin, vice-president of the EEC Commission, were heard by a full house.²⁵

A prosopography of the members of the AJE demonstrates that the large majority had already met through pre-existing networks such as the comparative law society, Société de Législation Comparée (SLC),²⁶ and/or the ranks of the Resistance.²⁷ The shared experience of resisting the 'Hitlerisation of justice' was a cornerstone of the group's ideals and identity, and making the law 'the cement of the European

¹⁹ See Article 1 of the original 1954 AJE's statutes. Cf. Alter, *European Court*, 67. Research in the AJE's archives shows however that the AJE's stated goal in the reprinted 1994 edition of the statutes used by Alter was identical to Article 1 of the original 1954 statutes.

²⁰ Cf. Alter, *European Court*, 66, in which the date of founding is given as 1953.

²¹ See Associations, 13 Jul. 1954, *Journal Officiel de la République Française*, 6671 and www.association-des-juristes-europeens.eu/presentation.php (last visited Oct. 2011).

²² *AJE bulletin*, 38 (1978), 16.

²³ The AJFA was founded in 1954 at the instigation of, among others, the Conseiller at the Cour de Cassation Jean Cosson, the ECJ advocate general Maurice Lagrange (1952–64) and his colleagues at the Conseil d'Etat (CE) Erwin Güldner and Daniel Pépy. Cosson, Güldner and Pépy also entered the AJE in the late 1950s. See www.ajfa.fr/2010/v_fr/ajfa.html (last visited Oct. 2011).

²⁴ Libre Justice was a section of the International Commission of Jurists. See www.old.icj.org/news.php?id_article=2709&lang=fr (last visited Oct. 2011).

²⁵ *AJE bulletin*, 27–38 (1967), 6; 38 (1978), 16.

²⁶ About 80% were members of the SLC and some even held leading positions there.

²⁷ Approximately 70% of AJE members had been active in the Resistance networks and/or the ranks of the Free French Forces.

construction' was of central importance to them all.²⁸ Alter describes how 'the French association was more distant from academics because [the latter] were more involved in the teaching [than] in the development of law'.²⁹ Indeed, the legal academy was outnumbered by professional AJE members during the 1950s. For this reason, the AJE was not well represented at the major academic conference organised in Stresa in early June 1957 to examine the legal character of the ECSC and whether it should be considered an international or 'supranational' organisation. In time, several of the French comparative law professors represented at Stresa³⁰ would become involved in the AJE, highlighting the general increase in academic involvement after 1963 and the continual importance of the discipline of comparative law in the association.

With this broadening membership around 1958, the AJE had to become much better organised. An Honorary Committee (HC) was formed from prominent legal and political personalities to promote the association.³¹ It was up to a Steering Committee (SC)³² to ensure the orderly functioning of the AJE by appointing a president and other officials. These appointments formed the Bureau which would run the AJE in co-operation with the SC and was responsible only to the General Assembly.³³ This Assembly met at least once a year at the Comparative Law Centre (Centre de Droit Comparé) in order to vote on the following year's budget and to provide for the eventual replacement of SC members. The General Assembly was always led by a member of the HC and the chairman of the AJE, who was Rolland from 1951 to 1967. In addition to this organisation, the AJE also began publishing in 1958 a bulletin of the various activities of AJE, with Rosenthal as editor.

To conclude, the AJE was clearly born out of the European commitment of Philip, Rolland and a small circle of lawyers gravitating around the Paris Cour d'Appel. At the same time the association was founded not only as an ideological attempt to help the building of Europe by the means of law, but also very much as a traditional legal and academic association. Its beginnings were very difficult and the AJE was,

²⁸ *AJE bulletin*, 13–14 (1963), 3 and Liora Israël, 'La Résistance dans les milieux judiciaires', *Genèses*, 45, Apr. 2001, 45–68. Strikingly, the *Conseiller d'Etat* Maurice Lagrange, who enforced Vichy's anti-Jewish laws, first became a member of the AJE in 1963 even though he had been closely associated with the AJE since its foundation.

²⁹ Alter, *European Court*, 68.

³⁰ Coming mainly from the Nancy or the Paris Faculté de Droit, these were Maurice Byé, Paris and head of the Centre de Droit Européen, Paul-Marie Gaudemet, Nancy, André de Laubadère, Paris, François Luchaire, Nancy, one of the drafters of the 1958 French Constitution, Jean de Soto, Strasbourg, and René Roblot, Nancy and Centre Européen Universitaire. See Centro italiano di studi giuridici, *Attes officiels du congrès international sur la CECA, Milan-Stresa, 31 mai – 9 juin 1957*, 8 (Milan: Giuffrè, 1959), 35–57; Julie Bailleux, 'Comment l'Europe vint au droit. Le premier congrès international d'études de la CECA (Milan–Stresa 1957)', *Revue française de science politique*, 60, 2 (2010), 306, 315.

³¹ Including Teitgen, the CE members Cassin and Alexandre Parodi and, later in the 1960s, Lagrange and Lecourt. See *AJE bulletin*, 38 (1978), 16; Gaudet to Cassin, 1 March 1965, AMG, Chronos.

³² In 1963, the SC had 36 members: among them fourteen lawyers, ten judges from ordinary courts, four Maître des Requêtes at the CE – one of them, Joseph Gand would replace Lagrange as ECJ advocate general in 1964 – and only three law professors. *AJE bulletin*, 13–14 (1963), 63.

³³ Art. 7 and 11 of the statutes.

despite its grand European ambitions, only a minor player in the legal landscape of 1950s Europe. This changed with the foundation of the European Communities (EC) in 1958, which prompted a dramatic increase in membership and the finalising of the organisational structure of the association. In terms of membership it was overwhelmingly constituted by practitioners, lawyers and judges, the large majority of whom had participated in the French Resistance during the war. Comparative law was the discipline and perspective of choice of the overwhelming majority of its members. This detailed investigation into a network of lawyers such as the AJE nuances Vauchez's statement that comparative law as a model for European legal integration failed in the early 1960s, when the projected programme of harmonisation of national law never got off the ground. The reality was that the AJE was very much born out of comparative law and that this clearly constituted a much broader legal approach to the construction of European law than merely harmonisation of national law.³⁴ It remained the lens through which the AJE approached European law for much of this period.

Foundation and development of FIDE from 1961 onwards

In a tribute to Rolland delivered in 1978, Touffait, then judge at the ECJ (1976–1982) claimed that it was Rolland who had the idea of consolidating the national ELA of the Six into a single federation. Indeed, Article 2 of the AJE statutes stated that it 'will be transformed into the French section of a European legal association as soon as the relations established between the French and foreign groups having the same aim allow'.³⁵ Perceived very early on as part of a larger structure, the AJE apparently served as springboard to 'find counterparts in the other five member states in order to create a common Federation'.³⁶ By 1958 Rolland's efforts seemed successful in Italy (Associazione italiana dei giuristi europei), Belgium (Association belge pour le droit européen) and Luxembourg (Association luxembourgeoise des juristes européens) where associations similar to the AJE were established.³⁷

The next step was to create a European umbrella organisation. Two meetings were held in Paris and Luxembourg during 1959, aiming to bring together jurists from across the member states. Those attending included the first two presidents of the Belgian association, Charles van Reepinghen (advocate at the Brussels Cour d'Appel) and Louis Hendrickx (*Conseiller* at the Brussels Cour d'Appel), Enzio Cortese Riva Palazzi (advocate general of the Milan Corte Suprema and general secretary of the Centro Italiano di studi giuridici, which had organised the Stresa conference) and the secretary of the Italian association, Mattia Persiani (advocate at

³⁴ Vauchez, 'Brokering Role', 113–14. For a broader and more nuanced understanding of comparative law, see Francesca Bignami, 'Comparative Law and the Rise of the European Court of Justice, Prepared for the biennial meeting of the European Union Studies Association', Boston, March 3–6, 2011.

³⁵ This 'European legal association' certainly prefigured the integration of the six national associations in the FIDE in 1961.

³⁶ Gaudet to Krawielicki, 6 Dec. 1960, AMG, Chronos. See also *AJE bulletin*, 38 (1978), 16.

³⁷ *Revue de droit international et de droit comparé*, 37 (1960), 275.

the Rome Corte d'Appello). Unfortunately, there is no evidence to explain why there were no German representatives at the first meeting and no Dutch at either of the first two meetings.³⁸ But the problem was how to establish an ELA in the two remaining member states. Due to these difficulties, the European Commission was asked to assist in creating the last two associations. The various national associations had different degrees of contacts with the Commission³⁹ and certainly the Commission was well informed about the attempts to establish a European federation in 1959.⁴⁰ After a brief turf war with Directorate General IV (DG IV),⁴¹ the legal service of the Commission would eventually win the right to develop the links with the new ELA.⁴² However, both Michel Gaudet, the head of the legal service, and Pieter Verloren van Themaat, director of DG IV, would be instrumental in organising national associations in the Netherlands and Germany. Verloren van Themaat was present at the first founding meeting of the Nederlandse Vereniging voor Europees Recht (NVER) in December 1960.⁴³ Gaudet facilitated the founding of the Gesellschaft für Europarecht in Germany.⁴⁴

By 1961, the six associations were ready to establish FIDE as the common umbrella organisation. This happened at a conference on European law in Brussels on 12–14 October 1961.⁴⁵ Rolland was appointed as president, the German jurist Bodo Börner as vice-president, and AJE member Louis-Edmond Pettiti as secretary-general. Hendrickx, Samkalden, Calteux and Carlo Bozzi, president of the Italian Consiglio di Stato constituted the general leadership in the Bureau.⁴⁶ The national associations were paying members of the federation and so FIDE did not have individual members as such.⁴⁷ The objectives of the federation were in principle academic, allowing national jurists interested in European law to study

³⁸ See *AJE bulletin*, 27–28 (1967), 6–7; Réunion de juristes européens, 1959, BAC.371/1991.589, Historical Archives of the European Commission (HAC), Bruxelles (HAC, BAC.371/1991.589).

³⁹ AMG, Chronos, 1960, Objet: Association des juristes européens – Section Allemande, 6 Dec. 1960.

⁴⁰ The Commission received a list of meeting participants. HAC, BAC.371/1991.589.

⁴¹ The Commission is divided into departments and services. The departments are known as Directorates-General (DGs).

⁴² See Morten Rasmussen in this special issue.

⁴³ The president of the new association was former Dutch minister of justice, socialist and professor of law, Ivo Samkalden. At the founding meeting it was explicitly discussed that one of the key purposes of the NVER was to contribute to the establishment of a federation between the national associations. I thank Morten Rasmussen for this information.

⁴⁴ Morten Rasmussen, 'Constructing and Deconstructing "Constitutional" European Law: Some Reflections on How to Study the History of European Law', in Henning Koch, Karsten Hagen-Sørensen, Ulrich Haltern and Joseph H. H. Weiler, eds, *Europe: The New Legal Realism: Essays in Honour of Hjalte Rasmussen* (Copenhagen: Djøf Publishing, 2010). The archival sources do not say anything about why a high-ranking French lawyer facilitated the formation of the German organisation. Robert Krawielicki, who also worked for the legal service, could in principle have done it.

⁴⁵ Rapport au Colloque international de droit européen organisé par l'Association Belge pour le droit Européen, Bruxelles 12–14 Octobre. Bruylant, 1962. See Gaudet to Rey, 14 Jan. 1961, AMG, Chronos.

⁴⁶ HAC, CEAB.2.2936, Note à Messieurs les Membres du Conseil d'administration du Service Juridique des Exécutifs Européens (HAC, CEAB.2.2936).

⁴⁷ Vauchez writes of FIDE members thereby magnifying the role and activities of FIDE. See, for example, Vauchez, 'Brokering Role', 123–4.

common solutions to legal problems posed by the emerging structures of European integration.⁴⁸ In order to do so, FIDE would review important legal questions at major bi-annual international conferences, most often agreed upon with the Legal Service. While permanent institutional structures were planned, they were never established, and instead a rotating presidency based on the host of the next FIDE conference was introduced. As a result, FIDE remained highly decentralised, only very loosely co-ordinating the activities of the national associations.⁴⁹ Financial support from the Commission was mired in internal budgetary fights and FIDE only received a subvention from the European executive on a regular basis from 1964 onwards.⁵⁰

FIDE had three important effects on the evolution of European law. First, the large-scale FIDE conferences did provide a forum for important actors from the national associations, ministries and European institutions to network and learn about new developments in European law. In this way, FIDE also provided a platform for informing the European institutions about how European laws were conceived and received by the emerging academic and professional field of European law. This was crucial to both the Legal Service, which used FIDE as a sounding board for policy formation in the field, and to members of the ECJ, who could test ideas for future case law in an informal way. Second, these same conferences and the ensuing publication of their proceedings constituted landmarks in the study of European law and in particular of the case law of the ECJ. FIDE would vote on resolutions endorsing the most recent doctrinal development of European law. The conference in The Hague in 1963 consequently supported the doctrine of direct effect, and the Paris conference in 1965 endorsed the doctrine of primacy.⁵¹ Together with the scholarly writings of members of the FIDE leadership and of important members of the national associations, this new academic field of European law would play an important role in legitimising the constitutional practice established by the ECJ. It would, despite massive opposition to European law in key member states, create a certain feeling of momentum. Third, FIDE, and indeed the national ELA, also facilitated the emergence of test cases from national courts. Thus leading advocates in the associations would pioneer the use of preliminary reference under Article 177 in order to test the nature of European law. Most importantly, the Dutch association established in November 1961 a working group on the self-executing nature of European law, which was a key question in Dutch law after two constitutional reforms in the 1950s.⁵² It would be a lawyer in this working group, L. F. D. Ter van Kuile, who together with the former president of the Amsterdam bar, Hans Stibbe, would bring the *Van Gend en Loos* case before the Dutch Tariffcommissie and ask it to consider whether Article 12 of the EEC treaty on tariff standstill had direct

⁴⁸ HAC, CEAB.2.2936.

⁴⁹ This is also the reason why FIDE does not hold a historical archive.

⁵⁰ Gaudet to Rolland, 9 Sept. 1963, Oct. 1963, and Gaudet to Sohier, 11 March 1965, AMG, Chronos.

⁵¹ Deuxième colloque international de droit européen, La Haye, 24–26 Oct. 1963 and Troisième colloque de droit européen, Paris, 25–27 Nov. 1965.

⁵² See Karin van Leeuwen's contribution in this special issue.

effect.⁵³ This was perhaps FIDE's most important contribution directly impacting the development of ECJ case law and in this case facilitating the launching of the constitutional practice by the ECJ.

Despite these successes, there is little evidence to support the far-reaching claim that FIDE functioned as the core network that played the brokering role, aligning the various campaigns of the European institutions and legal academic communities in legitimising the constitutional practice from 1963 to 1965.⁵⁴ The Bureau of FIDE did not provide day-to-day leadership. Rather, Gaudet and the Legal Service provided the core leadership behind this campaign.⁵⁵ They operated in a much smaller network that predated the formation of FIDE, including both the leadership of FIDE and figures that either never became members of the ELA, such as Dehousse, or entered them later in the 1960s, such as Lecourt and Lagrange. While FIDE as a network and the national ELA also facilitated the individual activism of a number of advocates and judges creating test cases to the ECJ of doctrinal importance, FIDE as an organisation did not constitute the key network nor did it 'critically define what European legal integration became'.⁵⁶ Its functions were always somewhat more modest.

Analysis of the role and impact of the AJE in France in the 1960s

During the 1960s the AJE's activities increased substantially. However, the impact of the association on how the new Fifth Republic and its courts would receive European law was nevertheless very small, reflecting the extent to which Gaullist France remained sceptical about European integration. This political context is central in understanding the limited impact of the AJE in France in this period.

The AJE mobilised on several fronts during the 1960s. Establishing centres outside of Paris had long been a priority and this process seemed to be well on track in the early 1960s as several conferences open to European lawyers were organised each year in the provinces. All of these conferences had a common denominator: the comparative study of national legislation, as it was 'up to the jurists to prepare not only for the harmonisation of legislations but also for their merging'.⁵⁷ This is of course not surprising considering the special relationship that had prevailed up until this point between the AJE and the SLC. Meetings on the harmonisation of the national laws within the Communities were held several times in Nice (2–4 June 1960; 13–15 May 1964; 11–13 June 1965), in Nancy (25–27 May 1962), in Lille (24–26 May 1963) and in Deauville (13–15 April 1967).⁵⁸ The sections also enjoyed a broad autonomy and conferences could therefore be held on a purely local initiative. Such

⁵³ Aff. 26/62 N. V. Algemene Transport – en Expeditie Onderneming van Gend & Loos v. Nederlandse Administratie der Belastingen (1963), Recueil 1963, 0003. See also Vauchez, 'Van Gend en Loos'.

⁵⁴ Vauchez, 'Brokering Role', 111.

⁵⁵ As described by Morten Rasmussen in this special issue.

⁵⁶ Alter, *European Court*, 73.

⁵⁷ *AJE bulletin*, 38 (1978), 15.

⁵⁸ *AJE bulletin*, 10 (1962), 30; 11–12 (1962), 52–56; 15–16 (1963), 23–82; 17–18 (1964), 67–71; 19–20 (1965), 10–56 and 27–28 (1967), 14–186.

was the case in Lyon (14–15 May 1962),⁵⁹ in Montpellier (9–11 October 1964),⁶⁰ and in Rouen (10–12 November 1967).⁶¹ The Lille and Montpellier sections were especially dynamic and summaries of their conferences were released on a regular basis in the *AJE* journal.⁶² These conferences would typically have a tripartite structure, covering French, foreign and then comparative reports. Officials from the European institutions, associations or groups directly concerned by the theme were regularly invited. By pursuing such specific agendas, these conferences undoubtedly played a role in legitimising the gradual dissemination of European law in France.

The *AJE*'s personnel and structural consolidation continued apace in the 1960s. As noted, academics became increasingly active in the *AJE* during the 1960s. As a consequence of the *Van Gend en Loos* decision, their numbers doubled during 1963. Vedel, dean of the Paris Faculté de Droit, inaugurated the Centre Universitaire d'Etudes des Communautés Européennes in the same year. The success was immediate and he entrusted its direction to three members of the *AJE*, Maurice Byé, Berthold Goldman, and Teitgen. The inauguration ceremony of the first class of European jurists took place on 22 February 1965 and was co-organised by Lagrange and Gaudet.⁶³ The latter was invaluable as a professional and academic adviser, making corrections to important articles on Community law by prolific *AJE* columnists such as the specialist in comparative law Fernand-Charles Jeantet.⁶⁴ In 1967, Rolland passed the *AJE* leadership baton on to Roger Houin, who was then professor at the Paris Faculté de Droit and chairman of the comparative law association, L'Association Henri Capitant.⁶⁵ Houin was well placed to lead the *AJE*. He was a special adviser to the Commission in trade improvement through the co-ordination of company law, which was a major theme for the *AJE* and the Paris Cour d'Appel during the 1960s.⁶⁶ He also co-founded the first specialised French journal on European law, *Revue trimestrielle de droit européen*.⁶⁷ Houin and co-founder Colliard ensured the membership on the editorial board of the journal not only of Gaudet, but also of ten *AJE* colleagues, some of whom were leading figures in the Community institutions.⁶⁸ Despite these achievements, it was clear that, with the new Gaullist elite in place in

⁵⁹ Seminar on 'The Organisation of Trade Representation and Registered Designations of Origin'. See *AJE bulletin*, 10 (1962), 30; 11–12 (1962), 54; 13–14 (1963), 54.

⁶⁰ Seminar on 'agricultural issues'. See *AJE bulletin*, 17–18 (1964), 65; 23–4 (1965), 101–3.

⁶¹ Seminar on 'The Legal Problems of British Accession to the Common Market'. See *AJE bulletin*, 29–30 (1969), 59–114.

⁶² *AJE bulletin*, 15–16 (1964), 23–82; 27–28 (1967), 5–9.

⁶³ *AJE bulletin*, 17–18 (1964), 16, 81; 21–22 (1965), 141; Gaudet to Labry, 23 Feb. 1965, AMG, Chronos.

⁶⁴ Gaudet to Rolland, 28 May 1963; Gaudet to Thiesing, 14 Oct. 1963; Gaudet to Rabier, 26 Oct. 1964, AMG, Chronos.

⁶⁵ *AJE bulletin*, 27–28 (1967), 8.

⁶⁶ The *AJE* thus organised within three years a conference on 'The Grouping of Firms on a European Scale' and an international congress entitled 'Towards a European-type Firm'. See *AJE bulletin*, 21–22 (1965); 27–28 (1967).

⁶⁷ Houin and co-founder Claude-Albert Colliard were colleagues at both the Paris Faculté de Droit and the *AJE*.

⁶⁸ These were Maurice Ayalot (attorney general at the Cour de Cassation), Raymond Odent (member of the Conseil d'Etat), Brunois, Gand, Jeantet, Lagrange, Lecourt, Parodi, Rolland, Teitgen, Touffait and Vedel. See Gaudet to Narjes, 28 Apr. 1965, AMG, Chronos.

the Fifth Republic, the AJE's influence was always going to be limited. Too many of its leaders were linked to the previous regime. While they could still rely partly on important personal contacts when necessary, the Fifth Republic proved to be stony ground for their European ideas.

One such example of a useful personal connection helped secure state funding for the AJE. Minister of justice under the first government of Michel Debré, Bernard Chenot, had been friendly to AJE and initiated regular financing for its activities. The subvention he gave was, however, limited, allowing for very little logistic support.⁶⁹ This forced Rolland to seek greater financial support for the funding of his 'Legal Centre for European Law Documentation' from the new minister of justice, Jean Foyer, in 1964.⁷⁰ As a jurist respectful of the rule of law, Foyer had much to do with the Paris Cour d'Appel ruling of 26 January 1963 stating that European law was binding on national courts with the same force as domestic law.⁷¹ Nevertheless he was a steadfast Gaullist and was cautious of the ECJ and later refused to be appointed as judge at the court.⁷² It would take personal connections to convince him to improve the level of financial support. First, thanks to Gaudet, Rolland obtained a letter of support from Prime Minister Georges Pompidou.⁷³ Second, Rolland was an old acquaintance of Foyer from the Resistance and the Paris Cour d'Appel in the early 1950s. By doing a favour for an old friend, Foyer was, in return, regularly informed not only of developments within the AJE, but also within FIDE too.⁷⁴ This type of connection could prove very useful not only for the ministry of justice, but also for the Gaullist power apparatus.⁷⁵ So while the Gaullist state was by and large uninterested in supporting the AJE and its aims, the AJE managed to secure relatively good relations with a funding ministry, as well as maintaining contacts with the few sympathetic Gaullists in the government.

Persuading the most important French courts to adopt European law proved more difficult. The fundamental changes that the French legal system underwent in the creation of the Fifth Republic clearly accentuated its traditional subordination to political power. De Gaulle had more or less tailored the 1958 constitution to his

⁶⁹ *AJE bulletin*, 27–28 (1967), 7; 38 (1978), 17.

⁷⁰ *AJE bulletin*, 17–18 (1964), 63; Rolland to Foyer, 5 May 1964, CAC950411, L27, Dossier de droit européen années 1892, 1929–1991, Ministère de la Justice (MJ), Archives Nationales Fontainebleau (ANF) (ANF/MJ CAC).

⁷¹ Foyer to the attorney general at the Paris Cour d'Appel, 5 Oct. 1962 and 20 Dec. 1962, ANF/MJ CAC950411, L118–2.

⁷² Michel Mangenot, 'Le Conseil d'Etat et l'institutionnalisation du système juridique communautaire', paper presented at 'Les juristes et la construction d'un ordre politique européen', Amiens, Apr. 2004, 5–6 (Mangenot, 'CE'). See also *AJE bulletin*, 25–26 (1967), 7–9.

⁷³ Gaudet to Ortoli, 9 March 1964, AMG, Chronos; *AJE bulletin*, 17–18 (1964), 3.

⁷⁴ For example, Rolland and Pettiti to Foyer, 17 May 1965, ANF/MJ, CAC 950411, L27. See also *AJE bulletin*, 25–26 (1967), 7.

⁷⁵ For example Foyer to the Ministry of Foreign Affairs, 11 Feb. 1963, ANF/MJ, CAC19771466. Article 245. Affaires 26.62. See also Marie-France Buffet-Tchakaloff, *La France devant la Cour de Justice des Communautés Européennes* (Paris: Economica 1985), 49.

own ideas of national sovereignty.⁷⁶ Article 26 in the 1946 constitution, which had granted supremacy to international law over national law, was modified into Article 55, which conditioned the supremacy of international law on the mutual contractual fulfilment by the other signatories of a treaty.⁷⁷ It should be mentioned that the actual practice by French courts since the so-called ‘Matter’ doctrine of 1931 had been to enact subsequent national law when it was not possible to sidestep a conflict with international law. De Gaulle sought to limit any modifying influence on his power from internal or external forces.⁷⁸ Having challenged the government on issues mainly related to Algeria, the French judicial system faced serious attacks on its independence and authority in the 1960s. At this point, French law was divided into two main categories: the judicial branch dealing with both criminal law and private law (for example, corporate law and law of contracts) and the public branch dealing with administrative law and constitutional law. The structure of both branches was divided between lower courts (inferior courts and intermediate appellate courts which heard cases on appeal from inferior courts) and the supreme courts which were the Cour de Cassation (private law), the Conseil d’Etat (administrative law). Moreover, the supreme courts did not have any power of judicial review in constitutional matters since this was the prerogative of the newly established Conseil Constitutionnel.⁷⁹ Inferior courts’ independence was reduced while the influence of appellate courts and Parisian jurisdictions was increased, making lower court challenges to traditional high court positions much less likely. The political pressure was such that de Gaulle tried to abolish the Conseil Constitutionnel and the Conseil d’Etat (CE) several times.⁸⁰

As a result, the kowtowed CE would adopt a highly sceptical stance towards European law and claim that it could easily interpret the meaning of European law itself (*acte clair* doctrine), thereby bypassing the preliminary reference system set up in Article 177 of the Treaties of Rome.⁸¹ In spite of the fact that the Cour de Cassation was more sympathetic towards international and European law than the CE, it found it difficult to exert much influence on the point. The usual practice of lower civil courts would – if questions of European law were part of a case – follow the Matter

⁷⁶ Jens Plötner, ‘Report on France’, in Anne-Marie Slaughter et al., eds, *The European Court and National Courts – Doctrine and Jurisprudence* (Oxford: Hart Publishing, 1998), 53–4.

⁷⁷ Article 26 had originally been promoted by Philip who was considered as the father of the 1946 Constitution. See Loïc Philip, ‘André Philip, constituant’, in Chevandier and Morin, *André Philip*, 165–80.

⁷⁸ For instance the role of the ministry of finance, which had endorsed a pro-European attitude in the 1950s, was successfully weakened to the benefit of the foreign ministry and its hard-core Gaullist minister, Maurice Couve de Murville. See Alexandre Bernier, ‘Dans l’ombre de l’Elysée: Etude des forces animatrices de la politique européenne du Général de Gaulle’, MA Dissertation, Copenhagen University, 2009, 69–76.

⁷⁹ It had been included in the 1958 Constitution by de Gaulle to weaken the CE which up to 1958 had the monopoly of interpreting not only public but also constitutional law.

⁸⁰ Due to the fact that the CE was not inscribed in the Constitution of 1958, de Gaulle could have dissolved it entirely legitimately. See Plötner, ‘Report’, 42, 57.

⁸¹ The members of the CE come from the French administration and therefore would usually refrain from putting the French Republic in a delicate situation vis-à-vis Community law.

doctrine and enact subsequent national law even if it was in breach of European law. If there were any doubts of interpretation, judges would refer them not to the ECJ by the means of Article 177, but instead to the justice ministry.⁸²

The most pro-European French court of some stature was obviously the Paris Cour d'Appel, the original home of the AJE. Throughout the 1950s and 1960s, the AJE enjoyed a special relationship with this court, as the majority of the members of the AJE, including future ECJ judges Lecourt (1962–76) and Touffait (1976–82), came from it.⁸³ However, restricted by jurisdiction to European questions concerning only customs, labour and social legislation, the doctrinal impact of its case law was limited.⁸⁴ Having served as councillor at the Cour de Cassation in 1961, Touffait was aware of these difficulties. As a result he used his leadership of the Paris Cour d'Appel to try to address the issue in a case in June 1962 concerning a decision from the Paris Tribunal de Commerce which overtly infringed EEC Regulation 17, stating that agreements liable to affect trade between member states had to be notified to the Commission.⁸⁵ In a ruling on 26 January 1963, the Cour d'Appel controversially went against the Matter doctrine and reinterpreted the monist Article 55 to reverse this decision, stating that European law was binding on national courts with the same force as domestic law.⁸⁶

In an AJE meeting held at the Centre de Droit Comparé on 23 February 1963, the attorney general at the Cour de Cassation and AJE member Maurice Aydalot lauded the 'good European kinship spirit' of the Paris Cour d'Appel for having shown the way to other national courts.⁸⁷ Having been the first under the Fifth Republic to question the traditional doctrine of French monism⁸⁸ and at the same time contribute to the doctrinal understanding of the new Article 55, the Paris Cour d'Appel was the only significant French court which actively promoted the case law of the ECJ in France. But as it had enforced the treaty by the means of the French constitution instead of the special character of European law, the ECJ never considered the court as

⁸² Plötner, 'Report', 44–45.

⁸³ When Touffait became first president at the Paris Cour d'Appel in 1962, he immediately supplied the AJE with facilities from the court so that the association could manage a 'centre for European law documentation'. *AJE bulletin*, 17–18 (1964), 63; 27–28 (1967), 7–8; 38 (1978), 17.

⁸⁴ Buffet-Tchakaloff, *La France*, 92; Georges Le Tallec, 'Droit européen: approches de la Cour de Cassation et du Conseil d'Etat', 14 May 1990, Archives de l'AJE, Paris.

⁸⁵ Themaat made sure that the French ministry of justice was alerted. As the decision clearly ran counter to the legal commitments France had endorsed in Brussels, Foyer ensured that the matter be referred to the Paris Cour d'Appel. See Foyer to Pailhé, 14 Oct. 1962, ANF/MJ CAC950411, L118–2.

⁸⁶ Cour d'Appel de Paris. *Affaire B6270: Société UNEF v. Ets. Consten*. Like Themaat, Gaudet followed this case very closely as it coincided with the early stages of the Commission's decision on the *Grundig-Consten* cartel (Decision 64/566/CEE, 23 Sept. 1964), which would later develop into cases 56 and 58/64 before the ECJ leading to the Judgment of the Court of 13 July 1966 described in detail by Witschke-Warlouzet in this special issue. See ANF/MJ CAC950411, L118, 27/2–63 and 2/3–63 and also *AJE bulletin*, 13–14 (1963), 47–48.

⁸⁷ *AJE bulletin*, 13–14 (1963), 5–30, 35–36.

⁸⁸ As attorney general at the Cour de Cassation, André Pépy had argued in vain in 1950 that Article 26 of the 1946 Constitution 'was a sign of the legislative will that judges apply international law over national law'. Karen Alter, *Establishing the Supremacy of European Law: The Making of an International Rule of Law in Europe* (Oxford: Oxford University Press, 2001), 136.

‘a key player in the process of doctrinal change’ in the 1960s.⁸⁹ Nevertheless, the ruling opened a window of opportunity for lower courts such as the Colmar Cour d’Appel, which became the first French jurisdiction to make use of the preliminary ruling mechanism in 1965.⁹⁰ After the Conseil Constitutionnel’s decision to abstain from examining the conformity of international treaties with national laws in 1975, it also served as a template for the Cour de Cassation to abandon the Matter doctrine and ultimately to comply with the ECJ supremacy doctrine the same year – a paradigm shift in which Touffait and Aydalot also played crucial roles.⁹¹

It would, however, take several years for the CE to do the same. The ties linking the AJE, the CE and the ECJ were very complex. Indeed the CE had played a key role in the formation of the ECJ during the Treaty of Paris negotiations. Its then President René Mayer intervened strongly in favour of a more narrowly construed administrative court.⁹² At the same time, key European officials, such as Lagrange and Gaudet, came from the ranks of the CE, a pattern that continues to the present day.⁹³ The CE is a double-headed institution comprising four administrative departments on the one side⁹⁴ and the administrative claims department on the other side. The latter can be joined either directly after graduating from the Ecole Nationale d’Administration (ENA) or by completing the ‘external tour’ which is less politically oriented and arguably provides a somewhat broader outlook.⁹⁵ In the 1960s, most of the AJE members originating from the CE came from the ‘external tour’ with the exception of ENA graduate Nicole Questiaux, who would prove faithful to the traditional legal ‘tools’ of the CE (among others the *acte clair* doctrine) when dealing with cases related to Community law.⁹⁶

There were several attempts to reconcile the ECJ and the CE. This was, for instance, the purpose of the AJE General Assembly conference entitled ‘Article 177 of the Treaty of Rome and the CE jurisprudence’ held on 20 March 1965. Gaudet hoped this was going to represent the starting point for a wider and more active participation of CE members in the AJE.⁹⁷ It was a wasted effort. The vice-president of the CE’s administrative claims department, Raymond Odent, faced a coalition

⁸⁹ Alter, *Establishing*, 134.

⁹⁰ *La Hessische Knappschaft c/ Maison Singer et Fils*, decision of 1 June 1965. The ECJ’s advocate general who handled this case was none other but the AJE member Joseph Gand. See Buffet-Tchakaloff, *La France*, 91.

⁹¹ Buffet-Tchakaloff, *La France*, 281; Plötner, ‘Report’, 60–1.

⁹² See the contribution by Anne Boerger in this special issue.

⁹³ See Mangenot, ‘CE’.

⁹⁴ Older members such as Lagrange, Parodi and Cassin performed their duties in these departments.

⁹⁵ ENA graduates were indeed the products of an institution which taught Community law ‘in an atmosphere of distrust towards European integration’. See Plötner, ‘Report’, 56.

⁹⁶ Questiaux joined the AJE only from 1967 to 1968 and advocated during a congress in late 1967 a more intensive use of the *acte clair* doctrine, confronting Lagrange on this matter. She was also the *commissaire du gouvernement* (the CE equivalent to the advocate general) on the highly sceptical *Semoules* decision (*Syndicat général des fabricants de semoules de France*, 1 March 1968).

⁹⁷ Gaudet to Rolland, 14 Dec. 1964, AMG, Chronos.

of law professors,⁹⁸ members or former members of the European institutions⁹⁹ and magistrates.¹⁰⁰ In his speech, Odent recapitulated the nature of the doctrine of the *acte clair*, triggering a cascade of counter arguments.¹⁰¹ In the next three years, *Commissaire du gouvernement* Questiaux would twice reiterate her refusal to ask the ECJ in case of doubt regarding an interpretation of European law.¹⁰² In early 1968, the CE followed her recommendation, arguing that the Conseil Constitutionnel alone was able to enforce European legal supremacy by verifying the constitutionality of laws.¹⁰³ Questiaux invited her peers to give primacy to national law subsequent to a Community regulation, thereby bypassing Article 55 of the Constitution. A short time later, this decision formed the object of private discussions between Gaudet and Parodi, during which they agreed on its erroneous reasoning.¹⁰⁴ The CE continued to make all efforts to treat the ECJ as an external court with limited competences for the next two decades.¹⁰⁵

Given the difficult national context in which the AJE evolved in the 1960s, the association still managed to develop extensive activities. While it also showed some ability in securing important connections with members of the magistracy, the CE and some important figures of the Gaullist government, the AJE's influence however remained within certain limits and its impact throughout the 1960s in France does not seem therefore to have been as great as Alter believes.¹⁰⁶ First, the special relationship between the AJE and the Paris Cour d'Appel would offer only a minor breakthrough for lower civil courts, allowing them to use Article 177, which they only did to a limited extent. Second, while the establishment of the constitutional practice doctrines led to the rallying of parts of the academic contingent in the AJE, the difficulties caused by this revolutionary jurisprudence for the relationship between the CE and the ECJ proved much more long lasting. This was despite the benefit of AJE members' influence at the ECJ (Lagrange, Lecourt and Advocate General Joseph Gand) and the CE (Cassin and Parodi, successive vice-presidents). Indeed, the ambiguous relations between the AJE and the ministry of justice show

⁹⁸ Colliard and two colleagues from the Paris Faculté de Droit, Paul Reuter and André de Laubadère.

⁹⁹ Lagrange, Gaudet and Nicola Catalano.

¹⁰⁰ Among others André Pépy.

¹⁰¹ Was Odent converted? He would indeed join the AJE in 1967 and would later criticise the poor conciliatory attitude of the CE. See *AJE bulletin*, 23–24 (1965), 3–45; Buffet-Tchakaloff, *La France*, 307.

¹⁰² Syndicat national des importateurs français de produits laitiers et avicoles and S. A. des établissements Petitjean et autres, decisions of 27 Jan. and 10 Feb. 1967. See Alter, *Establishing*, 139.

¹⁰³ *Syndicat général des fabricants de semoules de France*, decision of 1 March 1968. See Buffet-Tchakaloff, *La France*, 301. It would take over twenty years for the CE to reverse this legal interpretation by accepting in the famous *Nicolo* ruling that Article 55 empowers judges to set aside statutes that are contrary to Community law (*Raoul Georges Nicolo et autres*, CE decision of 20 Oct. 1989). See Patrick Frydman, 'Le juge administratif, le traité et la loi postérieure', *Revue française de droit administratif*, 5, 5 (1989), 813–24.

¹⁰⁴ Correspondance Mitchell/Gaudet, 20 March 1968, AMG, Chronos.

¹⁰⁵ Michel Mangenot, 'Une Europe improbable: Les Hauts fonctionnaires français dans la construction européenne 1948–1992', Ph.D thesis, Université Robert Schuman de Strasbourg, 2000. See also Buffet-Tchakaloff, *La France*, 309–10.

¹⁰⁶ Alter, *European Court*, 67–9.

how difficult it was for the association to win any favour in a predominately Gaullist French administration.

Conclusion

Recent research by Alter and Vauchez has outlined a crucial role for European law associations such as the AJE in the formation of the European legal order. According to this research, the ELA facilitated and defined the development of European law under the umbrella of a highly centralised FIDE at the European level. By analysing the history of the AJE at both the European and the national level, this article has revisited and qualified this understanding. While the AJE certainly mattered and played a role in the gradual dissemination of European law in France, a detailed historical study does not confirm that the AJE or FIDE critically defined what European legal integration became. Rather this study calls for a more nuanced and clearer understanding of the various national European law associations and the differing roles and impact they had, which ultimately was dependent on the particular political and legal context of the member states.

First, the examination of the first years of one of the most prominent and dynamic ELA, the French AJE, reveals not a success story, but rather a struggle with limited impact on the French reception of European law. Evidence drawn from archive material shows that in spite of having a significant number of high-profile members from the political and legal world, the AJE remained a minor player in the European legal field throughout the 1950s. By the turn of the decade the association had indeed grown stronger. The specific agendas of its several 1960s conferences played a role in the gradual legitimising process of European law in France and it managed to be the motor in the foundation of FIDE on the European level, but it had to deal with the Eurosceptic Gaullist Fifth Republic and the long-lasting hostility of the Conseil d'Etat in the 1960s within France. This massively limited the impact it could have on shaping a positive national reception of the constitutional practice.

Second, even though FIDE worked as a facilitator of test cases to the ECJ, and its large-scale conferences provided endorsement of the ECJ's most important doctrinal case law and a sounding board for the Legal Service, its structural deficiencies significantly impeded the federation from being a successful centralised transnational network providing academics and professional entrepreneurs with a brokering role at the European level, as Alter and Vauchez both claim.

As an epilogue, evidence ironically suggests that in spite (or because!) of the Cour de Cassation's final compliance with European law in the middle of the 1970s,¹⁰⁷ even the AJE's objective of shaping a positive national reception of the ECJ's constitutional practice came under attack, as illustrated by the Aurillac amendment; Gaullists led by the influential Debré managed to pass a bill protecting national laws against

¹⁰⁷ *Administration des douanes c/ Sté Cafés Jacques Vabre, SARL J. Weigel et Cie*, decision of 24 May 1975.

international treaties in the Assemblée Nationale in 1980.¹⁰⁸ Only in the mid-1980s and due to the political importance of the Single European Act, would the national interest (*raison d'Etat*) of France correspond with the objective of the AJE, culminating with the CE's compliance with European law in 1989.¹⁰⁹

Construire et légitimer: Les réseaux transnationaux des juristes et l'élaboration de la pratique juridique européenne, 1950–70

La recherche en sciences sociales sur le rôle d'associations nationales de juristes et de leur fédération dans l'élaboration d'un nouvel ordre juridique européen soutient qu'elles contribuèrent fortement à l'essor d'un droit spécifiquement européen. Néanmoins, cette recherche échoue à mettre en évidence la complexité du contexte dans lequel ces associations se sont développées. Fondé sur une documentation d'archives très complètes sur les premières années d'existence de l'Association française des juristes européens, cet article permet de mieux saisir les difficultés d'une lutte à l'effet limité sur la réception en France d'un droit fondamentalement européen entre 1951 et 1970.

Aufbau und Legitimation: Transnationale Juristennetzwerke und der Aufbau einer Verfassungspraxis des europäischen Rechts, 1950–70

Sozialwissenschaftliche Erklärungen zur Rolle europäischer juristischer Vereinigungen beim Aufbau einer neuen europäischen Rechtsordnung argumentieren, dass sie beim Ermächtigen des Europäischen Gerichtshofs und Definieren der Ergebnisse der europäischen Rechtsintegration entscheidend gewesen seien. Doch diese Ansätze beleuchten nicht die komplexen Umstände, unter denen sich diese Vereinigungen entwickelt haben. Diese Studie untersucht die Geschichte der französischen Association des juristes européens von 1951 bis 1970 auf der Grundlage umfassender Archivunterlagen und vermittelt dadurch ein kontextualisiertes Verständnis dessen, was als Kampf mit begrenzten Auswirkungen auf die französische Rezeption des europäischen Rechts erscheint.

¹⁰⁸ Plötner, 'Report', 62–63.

¹⁰⁹ *Nicolo* ruling of 1989.