

To: M. Emil Noël, President of the EUI

From: A. Cassese, J. Weiler

Date: October 13, 1987

Dear President,

Re: The European Journal of International Law

Further to your correspondence in the Summer with M. Weiler we would now like to present a formal request to the EUI concerning the European Journal of International Law.

In a first meeting of three of the Editors of the Journal which took place in August we discussed the points raised in your letter to M. Weiler. You will see that our revised proposal takes into full account your principal concerns.

In particular you will see that we have decided to make the Journal a bi-lingual English-French publication and that we have accentuated even further the European Community dimension of the publication without, however, losing its appeal to the wider constituency of public international lawyers.

We hope the Institute can reach a swift decision in this matter so that we may get down to the actual work of starting the ECJ.

E. Zaccardelli
pp. Joseph Weiler

Antonio Cassese
Antonio Cassese

Proposal for establishing a European Journal of International Law

The proposal for establishing a new European transnational journal of international law derives from a perception of a lacuna and need in this field.

The post-War period has seen a renewed growth of international legal scholarship in Europe and a significant expansion in national scholarly journals. Almost all countries now boast one or two professional international law journals and often a National Yearbook. Yearbooks are frequently published (wholly or in part) in English (with a view to reaching a wide international audience) and in addition to scholarly articles they try to give a synopsis of national state practice and judicial opinion of the country concerned.

Despite this welcome proliferation these publications do not cater for three glaring needs:

1. Institutionalized Europe, and in particular the European Communities, has emerged as an important international legal actor in its own right. The EC participates in numerous treaties, international organizations and other international fora. It is the prime example of a new international organizational "state" practice. And yet, there is no journal which has, as its major focal point, the treatment of the EC in international law.

To be sure, several of the European law journals deal with these issues on an occasional basis; and some of the international legal journals also publish from time to time scholarly articles in this area. But they do not provide a systematic focal point for international lawyers worldwide of the new phenomenon and its problems. It is not altogether an exaggeration to say that the few studies on the international role of the EEC have become the domain of specialized European law journals. The European Community has been practically alienated from the mainstream of international law scholarship. This of course is easy to understand in view of the growing autonomy of the EEC as a separate legal order, but it is regrettable that the insight of international law and international lawyers regarding the evolution of Europe as an international actor and the lesson that international lawyers may learn from the European experience is, to some extent, absent from the main fora of international law scholarship.

As regards the Council of Europe, most scholarship has focussed on the European Convention on Human Rights, with more limited attention being given to its other systemic features.

The new Journal would provide a vehicle to address these concerns.

2. In addition, we feel that despite the growing process of European integration, and the slow but sure removal of barriers to the movement of factors of production, there remain quite significant frontiers to the movement of ideas within Europe in the field of international law.

For both linguistic and other reasons, very frequently significant problems of international law are discussed on parallel lines within different jurisdictions.

Again, it is probably no exaggeration to say that in the field of international law, there is no forum for a truly European debate on central issues.

On a significant number of issues there is probably a distinct European way of thinking which is different from, not only Second and Third World perceptions, but also from other Western and particular American perceptions. We would like to both reflect and encourage this tendency -- without, of course, diminishing the plurality of national European experiences.

3. There is another "European" phenomenon which has not been reflected adequately in transnational European international law scholarship: the division between East and West Europe. With the exception of the writings of some notable Soviet and Eastern European colleagues there is a veritable divide between the two worlds. In particular there has not developed a shared forum where Western and Eastern international law scholars could regularly engage in scholarly interchange. Also lacking is a forum readily available to Western Scholars reporting regularly on legal developments in the Socialist world of international law -- the geographical focal point of which is, after all, Europe.

While the long-term significance of recent developments in the Eastern Bloc remain to be seen, there can be little doubt that the opportunity of encouraging a dialogue should not be missed. The EJIL would hope to offer, in a modest but important way, such a forum.

It is against this background that we have decided to found the new European Journal of International Law.

We are proposing that this Journal become, for a trial period of five years, a House Journal of the European University Institute. (In the way as, say, the ZAQR is the House Journal of the Max Planck Institute for International Law in Heidelberg).

What follows are some notions concerning the likely orientation of the EJIL. Since this is but a position paper most issues are still open to debate and change.

The European Journal of International Law (EJIL) will provide a uniquely European forum of international law. In so doing, the EJIL will be both the European journal of International Law and the journal of European International Law.

Languages

In choosing the languages of publication we have to reconcile contradictory concerns. On the one hand it is imperative to respect the cultural and linguistic diversity of Europe -- one of its unique features.

On the other hand, we want to be accessible to the largest number of readers and to foster cross-cultural exchange of idea. Sad as it may be, if we were to publish a piece in say, Danish, or Greek, the readership would be substantially reduced.

Finally, we have to take into account the exigencies of the practical world of publishing. Our aim is to make the Journal financially viable within five years. Multi-lingual publications are notoriously difficult to publish and sell.

In trying to reconcile these different exigencies we have adopted the following formula:

- a. The languages of the Journal will be English and French. The EJIL will publish articles in either English or French.
- b. It will accept however for publication articles written in other languages (so that authors may write and submit in their mother tongue) and will translate these into the languages of the Journal (English/French).
- c. It will carry brief synopses of major articles in some of the other languages.

Orientation

The following is offered only as a tentative reflection - final decisions are yet to be taken by the editorial board.

The orientation of the EJIL will be as follows.

1. The EJIL will highlight the practice of the European Economic Community in the international law arena.

a. With this in mind, the EJIL will publish in each issue at least one major article concerning International legal issues of the EC.

b. The EJIL will publish in each issue a special section dealing with Community ("State") Practice in the International Law field.

This represents both a conceptual breakthrough -- to treat the Community as a generator of State Practice -- and a practical innovation since no current Journal carries such a répertoire.

2. The EJIL will be oriented towards the new generation of European scholars; encouraging both their readership and participation.

3. The EJIL will seek to encourage contributions also from Eastern Europe.

Structure

Each issue of the EJIL will include the following selections:

a. Lead Articles. These will be selected from contributions submitted to the Journal. From time to time the Editors will announce themes which will receive special attention and become the subject of a mini-symposium within the Journal.

It is also planned to organize from time to time small colloquia at the EUI contributions to which will then be published as these mini-symposia in the EJIL.

b. Panorama. This will be a selection of much shorter contributions dealing with topical issues on the European and International agenda. It will give brief legal analyses of recent political events.

c. Répertoire. This section, as indicated above, will present in a systematic way, European Community "State" practice in the international arena. It will also present the International Treaty Practice of the Community and a survey of Court Decisions pertinent to International Law.

d. Book Reviews.

About once a year the EJIL will publish a special contribution assessing the work of great European public international lawyers from the different European countries and exposing their work to a wider audience.

Organization

The EJIL will be organized around two bodies: an editorial board and an advisory board.

The editorial board will consist of four members, representing various legal traditions in Europe. It will carry the full responsibility for all aspects of the Journal.

The members of the Editorial Board -- in effect the founders of the Journal -- will divide the responsibilities among them on functional and linguistic grounds.

The Founding Editors are:

1. Professor A. Cassese of the European University Institute and the University of Florence, member of the Board of Editors of the "Italian Yearbook of International Law"
2. Professor P. Dupuy, University of Paris II, member of the Board of Editors of "Revue générale de droit international public"
3. Professor B. Simma of the University of Munich
4. Professor J.H.H. Weiler of the Michigan Law School and the European University Institute. (Over the next few years Prof. Weiler will have also a regular attachment to Oxford).

The Editors will not receive compensation for their work for the Journal.

The advisory board will consist of leading internationalists primarily from Europe.

The primary tasks of the Advisory Board members would be to help the editors in designing the policy and orientation of the Journal; to assist in the launching of the Journal and then in the evaluation of manuscripts.

We suggest the following persons to be invited to sit on our advisory board:

Ex officio:

The President of the EUI
The Head of the Law Department of the EUI
One Member of the Research Council

We propose the following persons as our first invitees to be members of the Advisory Board:

F. CAPOTORTI, Professor, University of Rome

J.A. CARRILLO SALCEDO, Professor, University of Sevilla, Member of the European Court of Human Rights
R.J. DUPUY, Professor, Collège de France
C-D. EHLERMANN, EEC
J. FROWEIN, Professor, University of Heidelberg, Vice-President European Commission of Human Rights
B. GRAEFRATH, Professor, Academy of Science, Berlin (GDR)
R. HIGGINS, Professor, University of London
F. RIGAUX, Professor, Université catholique de Louvain
K.J. SKUBIZIEWSKI, professor, Academy of Science, Warsaw
H. THIERRY, Professor, University of Paris X
G. TUNKIN, Professor Emeritus, University of Moscow
A. YANKOW, Professor, University of Sofia, Member of the UN ILC

Publication Policy

We are proposing that for a trial period of 5 years the Journal will become a House Journal of the European University Institute. It will carry the EUI logo and be headquartered in Florence.

No doubt during this period many lessons will be learnt. After five years the arrangement could be reviewed.

The prestigious German firm of Duncker & Humblot has already agreed in principle to publish the EJIL. They will assume financial responsibility for the printing and distribution process.

We are particularly pleased with this choice since they have international experience precisely in this field, being the publishers of the German Yearbook of International Law.

Obviously this principled agreement will have to be translated into a mutually acceptable contract to both parties.

Our current intention is to publish the Journal originally two and then three times a year.

We propose to publish the first issue in Spring 1989.

Personnel

In addition to the Editors the EJIL will need a staff of two persons for the Journal: A Managing Editor (B/3-A/7); A Secretary (C/3-C/1).

Financial Support

1. Duncker & Humblot will carry all the costs of printing and distribution.

2. The EUI will support the personnel -- managing editor and secretary.
3. In addition a small operating budget essentially to cover the cost of meetings of the editors etc. will be needed. We estimate that 8 m. it. lire per annum should cover this item.
4. The Journal will need two offices and normal infrastructural support: telephone, mail, copying etc. The modality of this support could be settled by agreement and tried out for a period of five years.
5. Professor Simma's Institute in Munich will be able to contribute some money towards translation costs: In this regard we also hope to receive some help from the translation service of the EUI and hopefully from one or more of the European Community Institutions.

After five years it may be possible to achieve a greater measure of financial independence from revenue generated by the Journal itself.

We are also contemplating creating, contemporaneously with the Journal, the European Society of International Law which at a later date could have a positive financial bearing; but this is still very tentative. Again, our belief is that a successful Journal will provide a strong launching pad for the Society rather than vice versa.

Synopsis of the Proposal

For a period of 5 years the European Journal of International Law will become a House Journal of the European University Institute.

Orientation

1. The Journal will become a forum for focussed scholarly publication of the international legal problems concerning Europe and the World.

Special emphasis will be given to issues concerning the European Community and the World.

2. The Journal will engender debate and promote scholarship on international legal problems concerning European countries inter se.

3. The Journal will promote scholarly intercourse between West and East Europe.

4. The Journal will provide a forum for the emergence, where appropriate, of a European debate and perspective, distinct from the two major blocs.

5. The Journal will provide services (reports etc.) of interest to the European international lawyer.

Operation

1. The Journal will first appear twice a year, then, after 1 or 2 years, three times a year.
2. The Journal will be published in English and French. Manuscripts will, however, be accepted in the author's own language.
3. The publisher Duncker & Humblot has indicated a principled interest to publish and distribute the Journal.

Management

1. The Editors of the Journal will be: Professors Cassese, Dupuy, Simma and Weiler supported by an Advisory Board of leading international law scholars.
2. The personnel of the EJIL will consist of a Managing Editor (B3-A7) and a Secretary (C3-C1).