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Legal interpretation from the perspective of French jurisprudence: from positivist exegesis to free scientific research

Edyta Sokalska
Dr habil., Assistant Professor, Faculty of Law and Administration, University of Warmia and Mazury in Olsztyn; correspondence address: Diamentowa 49, 07-409 Ostrołęka, Poland; e-mail: edyta.sokalska@uwm.edu.pl;
https://orcid.org/0000-0003-0903-7726

Małgorzata Augustyniak
Dr, Assistsnt Professor, Faculty of Law and Administration, University of Warmia and Mazury in Olsztyn; correspondence address: 10-203, Olsztyn, Rataja 19A/30 Poland; e-mail: malgorzata.augustyniak@uwm.edu.pl;
https://orcid.org/0000-0002-5958-1992

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Abstract: The "natural law" movement provoked some discussions on the method of interpretation of law within European legal thought. Diverse methodological approaches referring to some social, historical, and multidimensional aspects and foundations of law were developed by French and German legal scholarship at the turn of the 19th and 20th centuries. The present article focuses on the main scientific positions on the method of interpretation of law present in French jurisprudence. Since the beginning of the 19th century, French legal studies were dominated by the positivist school of exegesis. Scholarship and legal practitioners sought the opportunity to rebuild their authority. It was accompanied by attempts to prepare a new theoretical ground for legal order. Then, some representatives of a new trend in scientific research considered pluralism of the methods applied in legal research. Raymond Saleilles postulated the need for the evolutionary perspective in legal science. This approach appears to be similar to the concept of the law of nature with variable content adopted by Rudolf Stammler in Germany. Since the last two decades of the 19th century, François Gény, the supporter of a greater flexibility in interpretation of a legal text, developed *libre recherche scientifique*.

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He questioned the idea of autonomy of legal science, calling for its integration with other disciplines.

1. Introduction

At the beginning of the 19th century, the transition from the paradigm of law of the normative order of the *Ancien Régime* to the paradigm of post-revolutionary law might be observed in France. A comparison between the legal reality before 1789 and the changes caused by the codification process initiated during the revolution and ended under Napoleon's rule were the essential point of consideration at that time. The introduced codes changed the legal reality in a fundamental way. Pre-revolutionary France was characterized by the variety of sources of law, the existence of legal regulations applying with varying scopes with regard to the personal and material dimension, and the recognition of a key part of courts in both: the application of rights and determining its content. The changes, which took place in the post-revolutionary period, were aimed at achieving the dominance of legislation and overcoming the existing legal pluralism by systematizing and harmonizing the sources of law.

It should be taken into account that the creators of the French Civil Code cautiously referred to the normative regulations of the Revolution time. Their goal was to create a stable and long-lasting system, and to support this goal, they turned to the tradition of the medieval reception of Roman law[1]. The Napoleonic codes served as a model for legislative considerations in other European countries[2]. According to the contemporary perception of law, the functions of judges were reduced to the mechanical application of law. Therefore, a significant limitation of the law-making activity of judges might have been noticed[3]. The reflection on the inter-

1 Jean Pascal Chazal, "Léon Duguit et François Gény, controverse sur la rénovation de la science juridique," *Revue interdysciplinaire d'études juridiques* 65, no. 2 (2010): 85.

2 Katarzyna Sójka-Zielińska, "Idee kodyfikacji napoleońskich. Od utopii do realizmu." *Czasopismo Prawno-Historyczne* 57, no. 2 (2005): 27.

3 Katarzyna Sójka-Zielińska, "Wizerunek sędziego w kulturze prawnej epoki Oświecenia," in *Prawo i ład społeczny. Księga Jubileuszowa dedykowana Profesor Annie Turskiej*, ed. Grażyna Polkowska (Warszawa: WPiA UW, 2000), 305.

pretation of law and its sources was revived then. From the perspective of the codes' authors, their works encompassed the implications of the law of nature.

At the same time, due to the lack of the national German codification and the significance of Roman law, German legal scholarship still concentrated on Medieval Roman law. *Pandectists* dominated German legal science in the field of private law, and the historical school was a leading current up to mid 19th century[4]. It was developed the idea that it was not possible to find the rational foundations of law, namely natural law. It was approved that some patterns for legislation might be drawn from the experience of previous generations, from history, particularly (in the perception of Friedrich Carl von Savigny) from the Roman law. Although, there was also developed an influential current of "Germanists" in the historical school that recognized medieval German law as the expression of the German *Volksgeist*[5]. It is significant that, in fact, Friedrich Carl von Savigny introduced the idea of a multidimensional approach to legal research. The *Begriffsjurisprudenz* (the German version of positivism) has dominated the German legal science in the 1850s. Then, in the last decades of the 19th century, several new tendencies have been initiated. Rudolf von Ihering developed *Interessenjurisprudenz*, the approach based on the research on the purpose of a legal rule[6]. It seems that Ihering's attitude towards legal

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4 See Herman Coing, "German *Pandektistik* in its Relationship to the Former *Ius Comune*," *The American Journal of Comparative Law* 37, no. 1 (1989): 9–15.

5 About the development of the German historical school, see more in Polish subject related literature, e.g., Artur Ogurek and Bartosz Olszewski, "Dzieje niemieckiej myśli prawa cywilnego do końca XIX w.," in *Acta Erasmiana II. Prace z myśli polityczno-prawnej oraz prawa publicznego*, ed. Mirosław Sadowski and Piotr Szymaniec (Wrocław: Katedra Doktryn Politycznych i Prawnych Pawie Uniwersytetu Wrocławskiego, 2012), 93–106; Grzegorz Jędrejek, "Teoria prawa niemieckiej szkoły historyczno-prawnej w świetle piśmiennictwa polskiego z XIX wieku," *Czasy Nowożytne* 8, no. 9 (2000): 175–194; Adrian Tabak, "Nauka prawa w ujęciu niemieckiej szkoły historycznej," *Biuletyn SAWP KUL* 13, no. 15/2 (2018): 291–300; Grzegorz Jędrejek, "Kilka uwag dotyczących oceny niemieckiej szkoły historyczno-prawnej w polskiej nauce prawa," *Czasy Nowożytne* 11, no. 12 (2001): 59–74. About the later perception of historical school, see Michael Stolleis, *A History of Public Law in Germany 1914–1945*, trans. Thomas Dunlap (Oxford: Oxford University Press, 2004), 3–4.

6 Rudolf von Ihering, *The Struggle for Law*, trans. John J. Lalor (Chicago: Callaghan & Co., 1879), http://onlinebooks.library.upenn.edu/webbin/book/lookupname?key=Jhering%2C%20

methods and jurisprudence has even led to the characteristic "openness" of the German legal science to the social science, particularly to economy and sociology.

The subject of interest of this article covers the main scientific positions on the method of interpretation of law which appeared in French jurisprudence at the turn of the19th and 20th century. The main questions the present study strives to answer are: What was the French methodology concerning the interpretation of legal acts? What was the attitude of French scholarship towards the patterns of legislation in comparison to the German jurisprudence? In this particular study the historic-descriptive method of theoretical analysis, legal (including formal legal method), and comparative methods were applied to address the research questions and to reach conclusions. Unfortunately, the modest scope of the article does not allow for an exhaustive treatment of the subject, therefore the internal ideological disputes within the indicated scientific currents have been omitted.

2. In search of the best interpretation of Legal Acts: Positivist School of Exegesis

In France, the process of the codification of law triggered the reduction of significant functions that had been previously performed by lawyers. There was made an assumption that the unification of sources of law, their systematization, clarity and precision of norms would contribute to better comprehension of law by everyone, not only by those who were educated in the legal science. In addition, this kind of conviction harmonized with the revolutionary narrative postulating civic equality, the transfer of sovereignty to the nation, and thanks to that the representative body was to perform the most important legislative functions. Therefore, it is not surprising that the legal community was exposed to a certain crisis of identity[7]. Scholarship and legal practitioners strove to rebuild their authority. There were undertaken some steps to prepare the theoretical ground for a new legal order. From the perspective of exegesists, the best interpretation of legal text should have met the criteria of predictability, and it should have

Rudolf%20von%2C%201818-1892.

7 Cf. Jean Louis Halpérin, *L'impossible Code civil* (Paris: PUF, 1992), 293.

been based on syllogistic reasoning, fidelity to the text, and the adoption of the principle of objectivity[8].

The purpose of the French Civil Code consolidating several legal orders was to overcome the uncertainty and arbitrariness of law. The intention of its creators was that the officially adopted text, due to its completeness, precision, compactness and clarity would not raise serious interpretation doubts. It would also enhance its prestige. Napoleon made also some efforts to make the Code not only understood but also well known. Therefore, he initiated its mass printing and distribution to the citizens. It was accompanied by the conviction that the Civil Code expressed some certain fundamental social values, which were not supposed to change significantly over the time. Hence, the theory of interpretation should have strengthened its coherence and durability.

The specificity of the approach presented above is well reflected in the statements of one of the creators of the Civil Code Jean Étienne Marie Portalis. He criticized the attitude of the leading representatives of the Age of Enlightenment towards jurisprudence. He was not in favor of the pursuit of constant legal reforms and the revolutionary spirit (*l'esprit révolutionnaire*), of which the previous projects had originated. Portalis also negatively assessed the code's simplification demand, and he put forward the thesis that the new code should have been based on reliable designs[9]. In his perception, legal acts are not the acts of pure authority or power, but they are acts of wisdom, justice, and reason. The legislator must bear in mind that laws are for people, not people for laws. Therefore, they must be adapted to the nature, habits, and situation of the society. New legislation should be passed gradually in order to recognize some possible unfavorable effects

[8] Julien Bonnecase suggests the division of the development of the exegesis school into three periods (the period of 1804–1830 - from the adoption of the Civil Code to the July Revolution; 1830–1880 - the peak of the exegesis school; 1880–1900 – the declining interest). See more Julien Bonnecase, *La Pensée juridique française de 1804 à l'heure présente: Ses variations et ses traits essentials* (Bordeaux: Delmas, 1933), 303 ff.

[9] Witold Wołodkiewicz, "Jean-Étienne-Marie Portalis. Jego wkład w prace legislacyjne Napoleona," *Palestra* 5–6 (2012): 237–238, Bernard Beignier, "Portalis et le droit naturel dans le Code Civil," *Revue d'Histoire des Facultés de Droit et de Science Juridique* 6 (1988): 77–101. See also Jean Étienne Marie Portalis, *Discours préliminaire au premier project de Code civil* (Bordeaux Édition Confluences, 2004), http://classiques.uqac.ca/collection_documents/portalis/discours_1er_code_civil/discours_1er_code_civil.pdf.

in practice. Institutions that function properly should be retained[10]. In this context, granting too much freedom of interpretation would favor the arbitrariness of law, and it would pose a threat to the order created by the legislator. The legislator turns out to be the institution, which (in order to realize a specific vision of a social order and respecting the values associated with it) makes key decisions concerning the shape of the rules that citizens should follow to achieve the desirable structure[11]. The choice made by the sovereign legislator should not be called into question. Therefore, such a theory of interpretation should be developed which does not depend on an individual interpreter.

The assumption that the law is an act of the sovereign's will, which was adopted at the beginning of the19th century, emphasized the importance of an authentic interpretation, in which the legislator interpreted the previously enacted text. This practice significantly limited the right of interpretation of other entities, granting the privileged position to the will of a sovereign[12]. Such practice could have jeopardized the legal stability and certainty due to the fact that the law was dependent on the decisions of

10 Pierre Antoine Fenet, *Recueil complet des travaux préparatoires du code civil*, *vol I* (Paris: VIDECOQ, Libraire, Place du Panthèon 6, près L'École de droit, 1856), 462, quoted in Sójka-Zielińska, "Idee kodyfikacji," 31–32. It should be also taken into account that Portalis critically assessed the achievements of the French Revolution in the context of civilization. He emphasized the irrationality, manifesting in the pursuit of the destruction of the existing habits and the weakness of the social ties. Portalis argued that private law yielded under enormous pressure of the public sphere - private interests, and the relationships between individuals were no longer taken into consideration because the interests of a state were exposed. The public sphere dominated over and manipulated civil law in order to gain some political goals. To counteract such tendencies, the creators of the Napoleon Code (including Portalis) have tried taking into account the voice of public opinion and the consultations with courts. Their proposal was to avoid some radical and exaggerated solutions which do not correspond to the moral condition and the state of a society. See Jan Baszkiewicz, "O powołaniu czasów Rewolucji i Napoleona do kodyfikacji," *Czasopismo Prawno-Historyczne* 57, no. 2 (2005): 13, 16.

11 Nader Hakim, *L'autorité de la doctrine civiliste française au XIX-e siècle* (Paris: LGDJ, 2002), 51.

12 The model of authentic interpretation of law did not originate in the thought shaped during the revolutionary period, but in the 17th century. Cf. Jean Louis Halpérin, "Legal Interpretation in France under the Reign of Louis XVI: A Review of the Gazette des Tribunaux," in *Interpretation of Law in the Age of Enlightenment: From the Rule of the King to the Rule of Law (Law and Philosophy Library)*, ed. Yasutomo Morigiwa, Michael Stolleis, and Jean Louis Halpérin, (Dordrecht: Sppringer, 2011), 23 –24.

political authorities[13]. It was possible to abandon the quest for the meaning of a legal act in accordance with the time when it was passed, and to focus on its adaptation to the current needs, which were determined socially, economically, and politically. However, in this context, the attention should be paid to the slightly different nature of the use of authentic interpretation in public and private law. Initially, the public law was based on parliamentary legislation, in the Napoleonic era – mainly on imperial decrees. Later, when the administrative issues rarely gained statutory regulation, the source of administrative law became the case law of the highest French administrative court - the Council of State[14]. The competence of the administrative judiciary in France was mainly determined by general clauses. Some non-specific terms as "public interest" or "public benefit reasons" increased the flexibility of law. In some way, they expanded the discretion of administrative authorities. Therefore, the administrative authorities were able to act according to the freedom they received.

In the area of private law, we can observe a gradual departure from the primacy of authentic interpretation in favor of interpretation of judges. To some extent, practical considerations contributed to this situation. It was necessary for a judge to ask the legislator for a binding directive in a specific case in the event of doubts arising in the course of proceedings (*référé législatif*)[15]. However, it significantly complicated and prolonged the proceedings. In addition, it was argued that this practice essentially meant granting the legislative authority the judicial function, which could have been regarded as a violation of the principle of separation of powers.

3. Raymond Saleilles and evolutionary perspective of law

A clear departure from the vision of perfect legislation, able to create a complete, coherent and clear enough system in order to eliminate all interpretation problems, has started since the second half of the 19th century. Raymond Saleilles (1855-1912) put forward the proposal of evolutionary

[13] Benoît Frydman, *Le sens des lois. Histoire de l'interprétation et de la raison juridique* (Paris: LGDJ, 2005), 396.

[14] Jerzy Malec and Dorota Malec, *Historia administracji i myśli administracyjnej* (Kraków: Wydawnictwo Uniwersytetu Jagiellońskiego, 2003), 88.

[15] Anna Klimaszewska, "Rewolucyjne dywagacje na temat podziału władzy, czyli krótka historia rekursu ustawodawczego we Francji," *Przegląd Naukowy Disputatio* 12 (2011): 12.

perspective in legal science. The sense and scope of regulations evolve with the changes in customs and ideas[16]. The law is transformed under the pressure of diverse social needs, which constantly evoke new combinations of visions and relationships. Therefore, legal science should constantly set and arrange the meaning of the provisions that had been created before with the requirements of social life. According to Saleilles, the idea of justice transforms into the natural law. However, his perception of natural law was different from comprehension in the previous centuries. The law is placed in contemporary social reality. The cooperation of representatives of legal doctrine and legal practice is needed because they determine the operation of law, its efficiency and usefulness in order to put forward the interpretation which adapts the act to its social function, and at the same time, it shapes and educates the community in the spirit of the act[17].

It should be taken into account that the above approach is similar to the concept of the law of nature with variable content created by Rudolf Stammler (1856–1938)[18]. Both scholars move away from the cause-and-effect-oriented theories trying to explain the social phenomenon of law[19]. At

16 Raymond Saleilles, "Droit civil et droit compare," *Revue International de l'Enseignement* 61 (1911): 12. For more about the theory of legal interpretation of Saleilles, see Robert Beudant and Edmund Eugene Thaller, *L'oeuvre juridique de Raymond Saleilles* (Paris: Libraire nouvelle de droit et de jurisprudence Arthur Rousseau, 1914), passim.

17 For more, see Raymond Saleilles, *Mélanges de droit comparé. Introduction à l'étude du droit civil allemand (à propos de la traduction française du Bürgerliches Gesetzbucg entreprise par le Comité de législation étrangère)* (Paris: F. Pichon, 1904), 3; Raymond Saleilles, *De la déclaration de volonté. Contribution à l'étude de l'acte juridique dans le Code civil allemand (art.116 à 144)* (Paris: F. Pichon, 1901), 289; Raymond Saleilles, "École historique et droit naturel, d'après quelques ouvrages rècents," *Revue Trimestrielle de Droit Civil* 1 (1902): 96 –97.

18 See Maria Szyszkowska, *Neokantyzm. Filozofia społeczna wraz z filozofią prawa natury o zmiennej treści* (Warszawa: PAX, 1970), 123–124. It should be taken into account that Rudolf Stammler and Leon Petrażycki had a dispute over who was the first of them who had put forward the idea of the return to natural law. See more Maria Szyszkowska, "Leon Petrażycki jako twórca nowej teorii prawa naturalnego," *Studia Iuridica* 74 (2018): 187.

19 About Stammler's perception of natural law, see Rudolf Stammler, *The Theory of Justice*, trans. Isaac Husic (New York: Macmillan Company, 1925, reprinted by Lawbook Exchange in 2000); Rudolf Stammler, *Wirtschaft und Recht nach der materialistischen Geschichtsauffassung: Eine sozialphilosophische Untersuchung* (Berlin: Walter de Gruyter, 1924); George H. Sabine, "Rudolf Stammler's Critical Philosophy of Law," *Cornell Law Quarterly* 18, no. 3 (1933): 321–350;

the same time, Saleilles attaches great significance to historically targeted comparative analysis, on the basis of which it is possible to capture certain permanent economic and social needs[20]. In turn, Stammler, being greatly influenced by neo-Kantian philosophy[21], on the basis of epistemology of law distinguishes a solid form and a historically conditioned legal material derived from reason and based on experience, which should be considered in terms of compliance with this form. Thus, the unchanging formal elements may be perceived as "indicating factors", timeless categories of order, and only with their assistance we are able to indicate the direction to which the law should head. In this perspective, the goal is more important than causality that allows only cognitive penetration of the real world, but it is insufficient to define the function of law[22]. Therefore, both German and French scholars have treated the law as the manifestation of social life, the matter of which is complex, dynamic, and relative, but it needs some constant reference points to serve properly. Some universal criteria are needed to assess the rightness and legitimacy of law.

4. The idea of free scientific research

François Gény (1861-1959)[23] was also a supporter of greater flexibility in interpretation of the legal text. He put forward the idea of searching some new solutions in jurisprudence. Subordination to the legal acts provides the interpreter with excessive predictability and certainty[24]. It is helpful to review current sources of law in terms of their significance and interpretation possibilities. Gény recognizes written law and formal customs established in social consciousness and legal practice as the formal sources of law. He treats

Gustav Radbruch, "Legal Philosophy," in *The Legal Philosophies of Lask, Radbruch and Dabin*, trans. Kurt Wilk (Cambridge: Harvard University Press, 1950), 60.

20 Saleilles, "Droit civil," 27.

21 See more Deniz Couskun, *Law as Symbolic Form. Ernst Cassier and Anthropocentric View of Law* (Dordrecht: Springer, 2007), 303; Szyszkowska, "Leon Petrażycki," 187.

22 See Łukasz Pikuła, "Znaczenie marburskiej szkoły neokantyzmu dla polskiej teorii i filozofii prawa," *Estetyka i Krytyka* 26, no. 4 (2012): 111.

23 François Gény presents his digressions in his two main works: *Méthode d'interprétation et sources en droit privé positif* (1st edn. in 1899) and *Sciences et techniques en droit privé positif, nouvelle contribution à la critique de la méthode juridique*.

24 François Gény, *Méthode d'intrepretation et sources en droit privé positif; essai critique*, *vol. I* (Paris: LGDJ, 1919), 64-65.

the scholars' opinions as an auxiliary factor - they can inspire the interpreter but they are not independent sources of law.

The definition of the sources of law frames the discourse on the interpretation of law, but in fact it does not indicate what an interpreter is to do in the case unregulated by law or customs. It should be emphasized that the body applying the law never acts in a vacuum. It is always accompanied by a specific social context, in which key directives appear. One of them is the postulate that the judge should try to resolve issues as if they would have been settled by the legislator, who, on the one hand, strives to realize the ideal of justice, and, on the other hand, attempts to realize the ideal of utility[25]. However, it is necessary to confer the more specific content on these general ideas in order to put them into practice. There are three ways that ultimately lead to the same goal. First of all, the person who applies the law relates the absolute ideal of justice to his own conscience and reason. Therefore, he instinctively feels the foundations of justice in our nature. Secondly, he considers the facts, the nature of things, and sociological phenomena in order to adjust the exegesis of law to the specificity of a given social order. At this stage, the key is to apply the data provided by various scientific disciplines. Next, the interpreter deductively extracts more detailed material and formal principles from the abstract ideal of justice.

Gény presents some examples, e.g., everyone has rights to develop his abilities under the condition that he respects the fact that others are entitled to the same rights; striving for harmonization of social order and adaptation of private interests to this; equal rights; the fulfillment of voluntarily undertaken obligations; condemning unjust enrichment at the expense of others; the obligation to repair damage caused by own fault, etc.[26]. From the perspective of Gény, the interpretation of a legal text is a complex process, therefore he proposes the "free scientific research" (*libre recherche scientifique*) where the achievements of sociology, philosophy, psychology, political science, ethics, economics, history, and comparative law are essential due to the fact that they create a multidimensional base[27].

25 Gény, *Méthode d'intrepretation*, 91.
26 Gény, *Méthode d'intrepretation*, 105.
27 Gény, *Méthode d'intrepretation*, 137-138.

Scientific research provides some "starting points", which determine the content of law and the expectations associated with it. These points are also adopted in legal practice, where the interpretation of norms strives to adjust them to current goals and conditions. Gény presents four groups of "starting points": real, historical, ideal, and rational[28]. They all have their basis in biological, physical, and psychological phenomena which, in turn, converge in law and condense in its formulas, especially those of practical application. Gény presents the example of a marriage institution which combines various "starting points". Marriage is based on the recognition of the physical rights of procreation. This institution meets the approval in its historical development (especially in the Christian tradition) because of the social benefits of a durable family. Monogamy itself is also convergent with certain cultural ideals. In addition, Gény points out one more important element - reason that evaluates values and facts. According to him, it allows to order various "starting points" by granting them the appropriate rank when we relate them, on the one hand, to the general requirements of justice, and, on the other hand, to the specificity of real needs in terms of individual life and social order[29].

It should be emphasized, that judges cannot only apply the sense of rightness contrary to the written law. Their interpretation of law should apply intuitive rightness if this measure is necessary for the realization of justice, and when it is in accordance with written law. In this perspective, the rightness will also be related to the specific circumstances of a particular situation - the characteristics of persons, the consequence of decisions, the assessment of public opinion, etc.[30].

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28 François Gény, Sciences et techniques en droit privé positif, vol. II (Paris; LGDJ, 1915), 370–371.

29 Thomas J. O'Toole, "The jurisprudence of Francois Gény," *Villanova Law Review* 3, no. 4 (1958): 463. https://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?article=1456&context=vlr.

30 Ibid., 112. For more, see also Joseph Charmont, "Recent Phase of French Legal Philosophy," In *Modern French Legal philosophy*, ed. A. Fouillée at al., trans. Franklin W. Scott and Joseph P. Chamberlain (Boston: The Boston Book Company, 1916), 114–124; Nader Hakim, "Droit naturel et histoire chez François Gény," *Clio@Themis* 9 (2015): 1–18, https://cliothemis.com/IMG/pdf/Hakim-2.pdf.

5. Conclusion

In the 19th century, Roman law studies served as an essential conduit for the development of a coherent approach to the reform and codification of civil law in Germany. *Pandectists*, a new school of Roman law, dominated German legal science in the field of private law. The historical school approved that some patterns for legislation might be drawn from the experience of previous generations, from history. Friedrich Carl von Savigny put forward the idea of a multidimensional approach to legal research. The *Begriffsjurisprudenz* (the German version of positivism), beginning in the 1850s, has dominated the German legal science. Then, in the last decades of the 19th century, several new tendencies have been initiated. Rudolf von Ihering developed *Interessenjurisprudenz* and the approach based on the research on the purpose of a legal rule. The civil code *Bürgerliches Gesetzbuch* of 1896 was the outcome of German Roman law studies[31].

In France, since the early 19th century, the positivist school of exegesis dominated in legal studies. In half the century, some representatives of a new trend in scientific research considered pluralism of the methods applied in legal research. Raymond Saleilles postulated the need for the evolutionary perspective in legal science. Since the last two decades of the 19th century, François Gény, the supporter of a greater flexibility in interpretation of a legal text, developed *libre recherche scientifique*, calling for the integration of the legal science with other disciplines and the need of the development of some closer to life methods that would allow the better implementation of the practical objectives of law.

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[31] Paradoxically, at the beginning of the 20th century, as it had been before in France under the Napoleonic codes, more German specialists in civil law have were concerned with the interpretation and comments on existing rules of law.

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