Research Centres of the Faculty of Law

- The Business and Law Research Centre
- Research Centre for State and Law
- The Centre for Notarial Law

The Business and Law Research Centre (Prof. C.J.H. Jansen)

The Business and Law Research Centre – known in the Netherlands by its Dutch abbreviation ‘OO&R’ (Onderzoekcentrum Onderneming & Recht) – is a cooperative venture between the Law Faculty of Radboud University Nijmegen and thirteen prominent, mostly international, law firms and Dutch multinationals. The following leading law firms, companies and financial institutions are partners: ABP Pension Funds, Akzo Nobel, Allen & Overy, De Brauw Blackstone Westbroek, Clifford Chance, Eumedion, Houthoff Buruma, ING, Loyens & Loeff, Nauta Dutilh, Pels Rijcken & Droogleever Fortuijn, Rabobank Netherlands and Stibbe. Various partners are closely involved in its research. What’s more, these partners may provide recommendations on the governance policy and focus of the OO&R through their participation in its Advisory Board.

The Centre conducts fundamental research in the field of business and law, and critically analyses national and international developments in legislation and case law pertinent to this field. It also provides a thorough educational programme for gifted young scholars and is actively involved in a wide variety of postgraduate educational and professional training programmes.

The OO&R’s main strength lies in combining academic excellence with the expertise and practical experience of its partners. This unique collaboration has led to cross-fertilization between legal practice and the academic world, generating results that are important both to academic research and to legal practice.

The four key research programmes of the OO&R are Company Law and Capital Markets, Banking, Finance and Insolvency Law, Business and Patrimonial Law (including European Private Law, the legal and moral status after wars is being studied at the Centre for State and Law.}
Staff

Prof. I.P. Asscher-Vonk (o)
Prof. S.E. Bartels (o)
Prof. F.E.J. Beekhoven van den Boezem (o)
Prof. J.M.A. Berkvens (e)
Prof. P.P.T. Bovend’Eert (o)
Prof. Y. Buruma (o)
Prof. E.C. Coppens (e)
Prof. D.R. Doorenbos (o)
Prof. N.E.D. Faber (o)
Prof. R. Fernhout (e)
Prof. C.A. Groenendijk (o)
Prof. J.W. van de Gronden (o)
Prof. L.E. de Groot-van Leeuwen (p)
Prof. C.M. Grundmann-van de Krol (o)
Prof. E. Guild (o)
Prof. H.M.A.L. Hamaekers (e)
Prof. A.S. Hartkamp (o)
Prof. J.J. van Hees (o)
Prof. F.J.P. van den Ingh (o)
Prof. C.J.H. Jansen (o)
Prof. J.G.C. Kamphuisen (o)
Prof. W.R. Kastelein (e)
Prof. P.H.P.H.M.C. van Kempen (o)
Prof. E.J.J.M. Kimman (o)
Prof. C.J.M. Klaassen (o)
Prof. A.M. Korebriets (e)
Prof. C.A.J.M. Kortmann (o)
Prof. P.M.C. de Lange (e)
Prof. R.H. Maatman (o)
Prof. A.J. Machielse (o)
Prof. T.J.M. Mertens (o)
Prof. G.T.K. Meussen (o)
Prof. M.J.A. van Mourik (o)
Prof. R.E.C. Niessen (o)
Prof. M.P. Nieuwe Weme (o)
Prof. A.G.A. Nijmeijer (p)
Prof. A.J.M. Nuytinck (o)
Prof. M. van Oijen (o)
Prof. A.A. Quaedvlieg (o)
Prof. W.A.K. Rank (o)
Prof. B.P.M. van Ravels (o)
Prof. J.S.L.A.W.B. Roes (p)
Prof. R.J.N. Schölls (o)
Prof. F.W.J.M. Schols (o)
Prof. C.H. Sieburgh (o)
Prof. G.M.F. Snijders (e)
Prof. G. van Solinge (o)
Prof. J.H.V. Stuyck (o)
Prof. P.J.P. Tak (o)
Prof. A.B. Terlouw (o)
Prof. N. van Tiggele-van der Velde (o)
Prof. P.C. Vegter (e)
Prof. L.G. Verburg (e)
Prof. H.L.E. Verhagen (o)
Prof. B.P. Vermeulen (p)
Prof. K.C. Wellens (o)

Tenured

Full Professors 11.4 FTE
Associate Professors 5.6 FTE
Assistant Professors 3.1 FTE
Researchers 2.2 FTE
Lecturers 1.9 FTE

Non-tenured

Researchers 3.8 FTE
Lecturers 7.2 FTE
Doctoral candidates 27.4 FTE

Collaboration

Within the framework of the International Working Group on Protected Funds in the EU and the International Working Group on Security Rights in Europe (both established by the OO&R and chaired by Prof. S. Kortmann), the OO&R cooperates with leading academics from a wide range of universities across the EU and beyond. There is close cooperation with senior researchers at the following universities: Berlin – Humboldt (Germany), Bern (Switzerland), Budapest (Hungary), Edinburgh (Scotland), Leuven (Belgium), Linz (Austria), London – King’s College (England), Luxembourg (Luxembourg), Madrid (Spain), Milan – Bicocca (Italy), Montpellier (France), Ohio (United States of America), Oxford (England), Paderborn (Germany), Paris II (France), Prague (Czech Republic), Rome – Luiss Guido Carli (Italy) and Thessaloniki (Greece).

The OO&R also collaborates with INSOL Europe within the context of its Academic Forum. Furthermore, various researchers of the OO&R participate in projects of the United Nations Commission on International Trade Law (UNCITRAL), the Inter-

Dutch General Private Law and Private International Law) and Employment Law.

As from 1 January 2009, a fifth research programme has been established in the field of ‘Business and Financial Law’.

The OO&R, which was established in 1991, is accredited as a research school and a ‘centre of excellence’ by the Royal Academy of Arts and Sciences (KNAW).

An international peer review committee assessed research at OO&R in 2008 on average as nearly excellent (score 4.5 - 5 on a five-point scale) on all of the four criteria it uses.

Research facilities

The OO&R houses the Information and Documentation Centre for Business and Law (CIDOR) – a centre of expertise which supplements the library of the Faculty of Law. It has a collection of books, journals and electronic publications on international and domestic business law that is unique in the Netherlands.

2008 RESEARCH REPORT

FTE 1st
FTE 2nd
FTE 3rd
Research Centres of the Faculty of Law

Country Institute for the Unification of Private Law (UNIDROIT),
the European Research Group on Existing EC Private Law (Acquis)
and the Common Core of European Private Law (Trento).

Research results
The research conducted within the OO&R provides new insights
into the approach to current problems in the legal practice of busi-
ness and finance (such as preventing market abuse, strengthening
financial supervision, combating the financial crisis, achieving
a more flexible company law, and modernising insolvency law).

Various books written by members of the OO&R were
published in the following series:
• Serie Onderneming en Recht (currently 47 volumes)
• Series Law of Business and Finance (currently 9 volumes)
• Serie vanwege het Van der Heijden Instituut (currently 98
  volumes)

The OO&R also publishes the leading case law review relating
to Business and Law (Jursprudentie Onderneming en Recht).
Research in the field of company law, insolvency law, agency law,
the law of obligations, private international law and European
private law is carried out on a continuous basis by authors of
(forthcoming) volumes in the prominent Asser Series. Further-
more, extensive comparative research has been conducted by two
International Working Groups established by the OO&R: the
International Working Group on Protected Funds in the EU and
the International Working Group on Security Rights in Europe.

The following conferences were organized by the OO&R in 2008:
• Conference on The influence of European Law on Dutch Private
  Law (‘De invloed van het Europese recht op het Nederlandse
  privaatrecht’), on 11 April 2008, SER (The Hague)
• INSOLAD/OO&R Conference on ‘The conservator, an octopus’
  (‘De bewindvoerder, een octopus’) on 29 May 2008, Rabobank
  Netherlands (Utrecht)
• Conference on Insurance Law (‘Verzekeringsrecht, Prof. J.G.
  Kamphuisen’) on 19 September 2008, Radboud University
  Nijmegen
• Conference on Bottlenecks in writs and foreclosure
  (‘Knelpunten bij Beslag en Executie’), on 11 December 2008,
  Rabobank Netherlands (Utrecht).

Societal impact
Prof. S.C.J.J. Kortmann is Chairman of the Advisory Committee
to the Minister of Justice on the reform of Dutch Insolvency Law.
This Committee has submitted a proposal for a new Insolvency
Act to the Minister of Justice and the Members of the Dutch
Parliament. Prof. Kortmann also participates in the Council of
INSOL Europe and is Rector Magnificus of Radboud University
Nijmegen. Prof. G. van Solinge participates in the AFM’s Capital
Markets Committee and the Company Law Committee (an Advisory
Committee to the Ministry of Justice). Prof. A.S. Hartkamp is
Council Member of UNIDROIT and a member of the Royal Academy.
Prof. J.J. van Hees is Chairman of the Board of INSOLAD. Prof. R.H.
Maatman has been appointed to the management board of the
AFM (Netherlands Authority for the Financial Markets). Prof.

Lonneke Peperkamp MA won an NWO Top Talent grant – a four-year PhD
research project – for her proposal on ‘the legal and moral status of jus post
bellum’ (justice after a war).
Future research
Research within the OO&R will continue to cover the following topics: corporate governance and compliance, financial markets, prospectus liability in Europe, attachment and enforcement, corporate litigation and special judicial remedies, structured finance, the credit crisis in domestic and comparative perspective, business and pension, ring fencing of pension funds, protected funds in the EU, security rights in Europe, as well as security rights in a historical and comparative perspective, and Insolvency Law in Europe and beyond.

Several researchers will participate in the Expert Group on Private Actors and Self-Regulation of HiiL (the Hague Institute for the Internationalization of Law). Several researchers will participate in the deliberations of UNCITRAL Working Group V on Insolvency Law and Groups of Companies and UNCITRAL Working Group VI on Secured Transactions. Members of the OO&R are expected to play an active role in the forthcoming INSOL International Conference in Vancouver in June 2009 and the INSOL Europe Annual Conference in Stockholm in October 2009. Various conferences are planned by the OO&R in 2009 in the field of Business and Law. Given sufficient research funds, consideration will be given to establishing the International Working Groups on Insolvency Law in and beyond Europe.

Research Centre for State and Law
(Prof. R.J.N. Schlössels)

The Centre for State and Law – known in the Netherlands by its Dutch abbreviation 'SteR' (Onderzoekcentrum voor Staat en Recht) – focuses on the central issues and basic principles in public law. Its researchers critically analyze national, European and international developments in constitutional law, administrative law and criminal law. The Centre has committed itself to creating a stimulating environment in which high-quality, national and international multidisciplinary research can flourish. It publicizes its results through authoritative publications (including its own book series), and also disseminates these results through lectures, conferences and symposia.

The Centre for Migration Law (CMR) – the oldest of the three research units that come under the Centre for State and Law – brings together researchers from various disciplines. Its purpose is to provide a stimulating context for high-quality research, both legal and empirical, on migration and the protection of minorities. The CMR is unique in Europe for its interdisciplinary approach and the composition of its staff, which include lawyers, sociologists, anthropologists and political scientists. It is also known for the comparative international approach it takes to much of its research.

The CMR also contributes to drafting new European migration laws. As well as conducting fundamental and applied research, it organizes international conferences, edits a journal (European Journal of Migration and Law), a book series (Immigration Law and Policy in Europe) and a year book on Dutch and international migration law (Rechtspraak Vreemdelingenrecht). The latter has been edited by members of the Centre since 1975, in collaboration with researchers from Utrecht University, Leiden University (Instituut voor Immigratierecht) and the Free University of Amsterdam. The CMR seeks to balance the funding of its research by maintaining a balance between funds from the University, Netherlands Organisation for Scientific Research, and other external sources.

The Research Unit 'Administration of Justice' was established within the SteR to enhance a multidisciplinary approach, providing excellent opportunities for its members to benefit from each other's know how. The unit focuses on law in action – the working of the courts, public prosecutors and the legal profession. Special attention has been paid to the phenomenon of convergence of civil, criminal and administrative procedural law. Exploration of common principles and concepts of legal proceedings is an important research topic. Administration of Justice involves research in four main areas:

1. Legislation and case law concerning procedural law, including the position of citizens in adjudication
2. Organizational design and practice of the Administration of Justice
3. The quality of Administration of Justice from the point of view of legality, effectiveness and efficiency
4. The legitimacy of the Administration of Justice, from the perspective of the ethics of legal professionals (magistrates, lawyers and others).

The Research Unit ‘Principles of Public Law’, which was established in 2008, will be extended in the next few years. Research is concerned with the main principles of public law from a national, European and international perspective. The unit focuses on the relationship between principles of the democratic constitutional state (i.e. the
Research Centres of the Faculty of Law

Key publications

The Business and Law Research Centre


Research Centre for State and Law


rule of law, human rights, the democratic order, and accountability) with national and international social developments. In this way, the tenability of these basic principles can be assessed. Within this unit, the expertise and know-how of constitutional, administrative, criminal, European and jurisprudential lawyers can be matched. The research done in this unit will lead to studies on international arbitration, European integration, the background and future of the European and national constitutions, the general provisions of administrative law and the law relating to local and regional administrations.

Awards and acknowledgements

• Profs. P.J.P. Tak and Y. Buruma received a royal honour.
• Dr D. Venema received the Praemium Erasmianum prize.

Collaboration

SteR participates in the International Research Universities Network (IRUN), collaborating with the universities of Münster, Kiel, Leuven, Poitiers, Montpellier, and Exeter. The centre also has international associations with the Max Planck Institut für ausländisches und internationales Strafrecht (Freiburg, Germany), the Challenge project (Challenge Landscape of European Liberty and Security, the International Penal and Penitentiary Foundation, the EU-AGIS program and the Working Group on Comparative Studies of Legal Profession. Within the Netherlands SteR collaborates with the Council for the Judiciary, the Ministry of Justice, several courts, municipalities and lawyers.

The Centre for Migration Law is responsible for co-ordinating the European Network on Free Movement of Workers within the European Union, which is funded by the European Commission. The CMR has long-term collaborative arrangements with the Research Centre for Institutional Behaviour and European Integration at the Austrian Academy of Sciences, the European Centre for Social Welfare Policy and Research in Vienna (Austria), the Centre for European Policy Studies (Belgium), the Danish Institute for Human Rights in Copenhagen (Denmark), the Research Centre for International and European Immigration and Asylum Law at the University of Constance (Germany), the Institute of Political Science in Paris (France), the London School of Economics (UK) and the Odysseus Network of Experts in European Migration and Asylum Law.

Research results

The Research Unit ‘Administration of Justice’ of the Centre for State and Law evaluated an experimental project on court sessions, combining cases in criminal and civil law for young offenders. Prof. T. Nijmeijer delivered his inaugural lecture on environmental law in December 2008. Prof. J.W. van den Grondon held his inaugural lectures on Free Trade in Services in October 2008. He was one of the organizers of the international conference on ‘The changing framework of public services in Europe’, in April
In 2008, the European Network on Free Movement of Workers – coordinated by the CMR – produced 27 national reports on developments that affect the freedom of movement of workers in the Member States, and published a European comparative report written by staff members at the Centre. An international conference was organized in Rotterdam, entitled: ‘Celebrating 40 Years of Free Movement of Workers: Old Problems and New Issues’.

Members of the CMR published various articles within the framework of the CHALLENGE programme (Changing Landscape of European Liberty and Security), a multidisciplinary project funded under the EU’s 6th Framework Programme involving 21 universities across Europe, which is examining new regimes and security practices and their relationship to civil liberties, human rights and social cohesion.

In cooperation with the ‘Taalstudio’ (a company that develops projects and products arising from linguistic research), the CMR organized seminars on the use of language analysis in the Dutch asylum procedure. An international conference in tribute to Prof. C.A. Groenendijk was organized in Nijmegen under the title ‘Migration, Citizenship and Law’. Prof. E.H. Guild was awarded an honorary doctorate from the University of Lund, Sweden in May 2008.

Societal impact

The Centre for State and Law arranged a day for the general public with replayed court cases and reflections on the jury system, the advocacy and the judiciary. Prof. L.E. de Groot-van Leeuwen is a member of the Advisory Editorial Board of Legal Ethics. She chairs the Working Group on the Comparative Studies of the Legal Profession (RCSL) and is a member of the Board of the Association of Complaint Law and Chief Editor of the Journal for Complaint Law. Prof. C.J.M. Klassen chairs the Dutch Association for Procedural Law.

Prof. Y. Buruma chairs the Admittance Committee Regarding the Evaluation of Completed Criminal Cases. Prof. C. Kortmann holds an Academy Professorship endowed by the Royal Netherlands Academy of Arts and Sciences and he is a member of the Academy. Prof. P.P.T. Bovend’Eert is a member of the Board of Editors of the Journal for Constitutional Law, a new Dutch review body that will be further developed in 2009. Prof. J.W. van den Gronden is a member of the Commission for Consumer Affairs of the Social-Economic Council (Sociaal-Economische Raad). He is a member of the Board of Editors of the Journal for Health Law. Prof. P.J.P. Tak is Secretary-General of the International Penal and Penitentiary Foundation (IPPF).

The CMR carried out research on behalf of the UNHCR, European Commission, the Dutch Ministry of Justice, the Advisory Committee for Aliens’ Affairs, the Dutch Refugee Council, FORUM (Institute for Multicultural Development) and the Dutch Foundation for Legal Aid for Asylum Seekers. Consultancy services were also provided to the Council for the Judiciary, the Dutch Refugee Council and FORUM. The Centre’s publications have affected both the political and the public debate on various issues, such as reversed discrimination, deprivation of Dutch citizenship and the need for a database of case law relating to new EC migration law. As part of the CHALLENGE programme, the CMR collaborated with the Centre for European Policy Studies in organising three seminars in Brussels in 2008.

Future research

Research on the ‘Administration of Justice’ will continue and the Research Unit ‘Principles of Public Law’ will be further developed. The Research Unit ‘Administration of Justice’ will organize a conference on ‘Convergence of procedural law’ in 2009. Prof. P.P.T. Bovend’Eert is member of the Board of Editors of ‘The Constitutional Law of the EU Member States’, a volume which makes a comparative study on constitutional law. The first results of the study can be expected in 2009.

The CMR has been commissioned by the European Commission to coordinate the Network on Free Movement of Workers in the EU in the coming years. The CMR will continue to participate in several other projects funded by the EU, such as a PhD project on deprivation of citizenship under EU Framework VII (ENACT) and on withdrawal of nationality, together with four partners (Open University, CEPS, CEU Budapest and the University of Istanbul). A Netherlands Organisation for Scientific Research-funded PhD project on service provision and migration started in 2008.

The Centre for Notarial Law

(Prof. M.J.A. van Mourik; since November 2008, Prof. F.W.J.M. Schols)

Researchers at the Centre for Notarial Law (CNR) study the principles, the system and the development of those fields of law in which civil-law notaries work, for example, real-estate law, company law, and particularly non-limited liability partnerships as well as marital property, and the law relating to inheritance, business succession, estate planning and inheritance tax. They also examine closely related fields such as personal and family law, agricultural law and the law on pensions. Particular attention is
Director: Prof. Henny Sackers

Henny Sackers was Associate Professor of Criminal Law at Radboud University Nijmegen from 1997 to 2007. In 2008 he was appointed Full Professor of Administrative Penal Law. In the past he was Vice-dean for Education at the Faculty of Law. As from January, 1, 2008 he has also been Vice-dean for Research. He is a substitute judge in the criminal chamber of the High Court in Arnhem.

paid to the bearing of these fields on the general law of property. The approach to all such work is practical, with several researchers also being active in notarial practice.

The Centre seeks to make a major contribution to the scientific foundations of notarial practice by publishing handbooks and other influential publications. It aims to maintain its prominent position in notarial law in the Netherlands, and to shape the legislative process and the practice of notarial law through its research.

Research facilities
The Institute for Law has a large, well-equipped library with state-of-the-art ICT facilities.

Collaboration
The Centre for Notarial Law works with ABN Amro Bank NV in the field of estate planning, and monitors the academic level of the consultancy services provided by the bank. It also works with the Dutch Foundation for Professional Education of Notaries (SBN), the Royal Notarial Association (KNB), the Association of Estate Planners in Notarial Practice (EPN), Netwerk Notarial Association and with Tilburg University as part of its course in Notarial and Fiscal law.

Research results
The Centre for Notarial Law publishes since 2006 a series called ‘Publicaties vanwege het Centrum voor Notarieel Recht’ (currently 8 volumes). The Centre for Notarial Law organized in 2008 in cooperation with the Foundation ‘Stichting Nijmeegse Notariële Congresen’ a national conference on ‘Notarial disciplinary law’.

Societal impact
The interaction between science and notarial law practice advocated by the Centre involves a strong bond between members and legal practice. Researchers are actively involved in lectures, training and legal advice, while acting as preliminary advisors. Researchers are lecturers (in charge) for the Stichting Beroepsopleiding Notariaat (SBN), for the estate planners of EPN, the association of estate planners in notarial law. They are also involved in several organizations, including the Commission Succession Law II of the Royal Notarial Association, The Board of the Institute for Agricultural Law in Wageningen, the Stichting tot Bevordering der Notariële Wetenschap and the Scientific Council and Board of the Thijsmeenootschap. Moreover, one researcher is legal advisor of the Dutch Province of the Roman Catholic Church (statute-law).

Future research
Current projects within the Centre for Notarial Law will continue, including the historical development of the legal position of the surviving spouse in Dutch civil law, the exegesis of last wills, the international aspects of estate planning, the new law concerning non-liability partnerships (‘personenvennootschappen’) and developments in the legislation on marital or matrimonial property. ‘Delegation of last wills to third parties’ and ‘the new inheritance tax law’ will be new research projects. In 2009 the results of an empirical research project on the facilities for business succession in practice will be published.