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

The Business and Law Research Centre – known in the Netherlands by its Dutch acronym ‘OO&R’ (Onderzoekcentrum Onderneming & Recht) – is a cooperative venture between the Law Faculty of the Radboud University of Nijmegen and thirteen prominent, mostly international, law firms and multinationals: ABP Pension Funds, AkzoNobel, Allen & Overy, De Brauw Blackstone Westbroek, Clifford Chance, Eumedion, Houthoff Buruma, ING, Loyens & Loeff, Nauta Dutilh, Pels Rijcken & Droogleever Fortuijn, Rabobank Netherlands and Stibbe. These partners are extensively involved in research at the Centre. Furthermore, they provide recommendations on the governance, focus and prospective research projects of the OO&R through their participation in the Advisory Board.

The Centre, which conducts fundamental research in the field of Business and Law, critically analyses national and international developments in legislation, case law and best practices related to this field of law. 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 continuing cross-fertilization between legal practice and the academic world.

The four key research programmes of the OO&R are:
• Company Law
• Banking, Finance and Insolvency Law
• Business and Patrimonial Law
• Business and Financial Law

The research conducted by the OO&R – across all research programmes – focuses strongly on European private law and private
Staff

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Prof. S.E. Bartels (o)  
Prof. F.E.J. Beekhoven van den Boezem (e)  
Prof. J.M.A. Berkvens (e)  
Prof. P.P.T. Bovend’Eert (o)  
Prof. Y. Buruma (o)  
Prof. E.C. Coppen (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. A.S. Hartkamp (o)  
Prof. J.J. van Hees (o)  
Prof. C.J.H. Jansen (o)  
Prof. W.R. Kastelein (e)  
Prof. P.H.P.H.M.C. van Kempen (o and p)  
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Prof. A.M. Korebrits (e)  
Prof. C.A.J.M. Kortmann (o)  
Prof. R.H. Maatman (o)  
Prof. A.J. Machielse (o)  
Prof. T.J.M. Mertens (o)  

Prof. G.T.K. Meussen (o)  
Prof. R.E.C.M. Niessen (o)  
Prof. M.P. Nieuwe Weme (o)  
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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 10.6 FTE  
Associate Professors 5.6 FTE  
Assistant Professors 2.6 FTE  
Researchers 2.6 FTE  
Lecturers 1.3 FTE  

Non-tenured  
Researchers 3.5 FTE  
Lecturers 8.8 FTE  
Doctoral candidates 32.3 FTE

international law. This focus is complemented by research on the practical applications of the law, international and comparative research and multi-disciplinary research.

The OO&R, which was established in 1991, is recognized as a research school by the Royal Netherlands Academy of Arts and Sciences (KNAW). In 2009 this accreditation was renewed until 2015. The OO&R’s educational programme for gifted young scholars was accredited by the Accreditation Organisation of the Netherlands and Flanders (NVAO).

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 with a collection of books, journals and electronic publications on international and domestic Business Law that is unique in the Netherlands.

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.C.J.J. Kortmann), the OO&R cooperated in 2009 with leading academics from a broad range of universities across the EU and beyond, in particular with senior researchers at the following universities: Berlin – Humboldt (Germany), Bern (Switzerland), Budapest (Hungary), Edinburgh (Scotland), Leuven (Belgium), Linz (Austria), London – King’s College (UK), Luxembourg (Luxembourg), Madrid (Spain), Milan – Bicocca (Italy), Montpellier (France), Ohio (USA), Oxford (UK), Paderborn (Germany), Paris II (France), Prague (Czech Republic), Rome – Luiss Guido Carli (Italy) and Thessaloniki (Greece). The OO&R also collaborated with INSOL Europe and UNCITRAL.

In 2009 the OO&R established new International Working Groups in the field of insolvency law, company law and financial law.
Research results

The causes, consequences and future remedies for the global credit crisis were discussed during a major conference organized by the OO&R at ING House on 11 September 2009. A forthcoming volume in which the Credit Crisis is analyzed from both a domestic and comparative legal and economic perspective will be published in the beginning of 2010. Legislative and policy reforms were advocated in various other research projects. An important example was the publication of the Draft EU Directive on Protected Funds which could – given possible future consideration by the European Commission – change the legal landscape of trust arrangements across the European Union. The monetary policies of the Dutch Central Bank concerning credit claims were critically addressed by Prof. F.E.J. Beekhoven van den Boezem in his inaugural lecture. Examples of practical experience of the effectiveness of specialist courts proceedings were collected by a research team at the OO&R (commissioned by the Council for the Administration of Justice; Raad voor de Rechtspraak).

The ‘position of execution creditors’ and ‘the law applicable to employment contracts’ were extensively analyzed in separate volumes published by the OO&R and discussed during conferences organized or co-organized by the OO&R at Rabobank Netherlands and at the University of Antwerp. In cooperation with the Ministry of Justice, the OO&R organized a seminar at WTC Amsterdam on potential legislative reform to enhance capabilities for combating insolvency fraud. The new volume published by Cambridge University Press on the legal position of the unauthorized agent was presented at an international expert meeting organized by the OO&R at De Brauw Blackstone Westbroek in Amsterdam.

November 2009 the Van der Heijden Institute (the company law department at the OO&R) organized a major biennial conference on internal disputes between corporate entities.

Major new editions were published in the prominent Asser Series in the field of Company Law, Contract Law and the General Law of Obligations. A new textbook was published in which the law applicable to investment institutions is systematically examined. The OO&R also published on a monthly basis the leading case law review relating to ‘Business and Law’ (Jurisprudentie Onderneming en Recht).

Dr M.S. Houwerzijl presented the results of an EU-funded project focusing on the ‘Representation of Agency Workers’ in Europe.

Societal impact

The societal impact of research conducted by the OO&R can be seen in relation to the financial turmoil during the credit crisis. The availability and cost of credit, best practices in terms of corporate governance, shareholder activism and financial markets supervision are just a few examples of topics which have triggered great deal of public debate and controversy and which represent a core strand of the research done at the OO&R. Other research topics which directly influence the financial and commercial climate both in the Netherlands and internationally include trusts and protected funds arrangements, secured transactions, the effects of the opening of the insolvency proceedings, combating insolvency fraud, asset management, pension funds, corporate litigation and the use of flexible corporate entities.
The societal impact of research done at the OO&R is further enhanced by the extensive involvement of its partners in large-scale, and often permanent research projects. This unique institutional cooperation generates results which are often directly applicable in practice and/or which contain recommendations for legislative and policy reforms designed to meet particular societal needs.

Most senior researchers at the OO&R hold key positions in law reform committees, courts, the Netherlands Authority for the Financial Markets, law firms, banks and/or companies.

Future research
Pending and future research projects include ‘Corporate governance and compliance’, ‘The position of shareholders’, ‘Securities in patrimonial law’, ‘Structured finance’, ‘The credit crisis in domestic and comparative perspective’, ‘Business law in relation to pension schemes and funds’, ‘Security rights in Europe from a comparative perspective’ and ‘Corporate Criminal Law.’ Permanent research is conducted by the OO&R within the framework of several volumes published in the prominent Asser Series. Early in 2010, the EU-funded project study on the legal aspect of the posting of workers will start.

A major research project was initiated by the OO&R in which core topics of insolvency law are compared in 25 selected countries both within and outside Europe. The outcome of this project will be published in fifteen volumes (which are destined to function as a main source of reference in the field of international and comparative insolvency law). Other International Working Groups recently established by the OO&R will thoroughly examine applicable laws and best practices relating to ‘The One Tier Board’ and ‘The Liability of Asset Managers.’ These projects were established to critically analyze the domestic legal regimes of selected European countries and to advance recommendations for European harmonization.

The OO&R will organize various conferences and seminars on a wide range of topics in the field of ‘Business and Law.’ Furthermore, researchers at the OO&R are expected to continue to participate in activities organized by UNCITRAL, INSOL International and INSOL Europe. International expert meetings will be organized by the International Working Groups established by the OO&R.

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 key 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 aims to create a stimulating environment in which high-quality, national and international multidisciplinary research can flourish. SteR runs three major research programmes:

1. Centre for Migration Law
2. Administration of Justice

The ‘Centre for Migration Law’ (CMR) programme brings together researchers from a variety of disciplines to provide a stimulating context for high-quality fundamental and applied 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 includes lawyers, sociologists, anthropologists and political scientists. It is also known for its comparative international approach.

The CMR provides a thorough academic training and a stimulating research climate, operating a guest programme that receives promising PhD students and young postdocs from all over Europe. Its staff conduct research for international organizations such as the European Community, the Council of Europe, the UNHCR, the International Organization for Migration, the UN Centre for Human Rights, Amnesty International and the European Council on Refugees and Exiles.

The CMR also contributes to drafting new European migration law. It organizes international conferences, edits a journal (European Journal of Migration and Law), a book series (Immigration Law and Policy in Europe) and a yearbook on Dutch and international migration law (Rechtspraak Vreemdelingenrecht).

The ‘Administration of Justice’ programme focuses on law in action – the working of the courts, public prosecutors and the legal profession. Special attention is paid to the phenomenon of convergence of civil, criminal and administrative procedural law. Exploration of common principles and concepts of legal proceedings is also an important research topic. ‘Administration of Justice’ involves research in four main areas:

1. Legislation and case law relating to 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 ‘Principles of Public Law’ programme focuses on the main principles of public law from a national, European and international perspective. Researchers investigate the relationship between principles of the democratic constitutional state (i.e. the rule of law, human rights, the democratic order, and accountability) and
Research Centres of the Faculty of Law

Key publications

The Business and Law Research Centre


Research Centre for State and Law


The Centre for Notarial Law


Dissertations: 8
Scientific publications: 259
Professional publications: 189
Annotations: 232

national and international social developments. The principles are studied with a keen eye on European and global developments. The programme combines the expertise and know-how of constitutional, administrative, criminal, European and jurisprudential lawyers.

In 2009 the project ‘Fundamentals of a global legal order’ started, based on a Netherlands Organisation for Scientific Research (NWO) Vidi grant for a senior researcher in Philosophy of Law.

P.H.P.H.M.C. van Kempen was appointed as Professor in Criminal Law and Procedural Criminal Law. He also holds the chair of Human Rights. H.J.B. Sackers was appointed Professor in Administrative Sanction Law.

Awards and acknowledgements
• Prof. E. Guild was granted a Jean Monnet chair ad personam.
• Prof. C.A.J.M. Kortmann received the Royal Honour 'Knight in the Order of the Dutch Lion'.

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 Institute for Foreign and International Criminal Law (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. In 2009 SteR celebrated five years of collaboration with the Court of Appeal and the District Court in Arnhem.

The ‘Centre for Migration Law’ is responsible for coordinating 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
In general, SteR makes its results known through leading publications (including its own book series), and it also disseminates these results through lectures, conferences and symposia.
CMR researchers D.P.L.M. van Dam LL.M., M.H.A. Strik LL.M. and Dr K.M. Zwaan prepared the Dutch report for a UNHCR project titled: Improving EU Asylum Procedures: Comparative analysis and Recommendations for Law and Practice. Dr C.A.F.M. Grütters conducted research on the Settlement of the old Aliens Act Estate Scheme (the pardon scheme).

‘International Exploration on Forced Marriages’ is a study on legal initiatives, policies and public discussions in Belgium, France, Germany, the UK and Switzerland related to forced marriages. The study is the result of an interdisciplinary project between the Institute for Sociology of Law and the Department of Cultural Anthropology and Development Studies at Radboud University Nijmegen.

The programme ‘Administration of Justice’ carried out two research projects funded by the Council for the Judiciary. One was conducted by Dr A.G.M. Böcker, Dr T. Havinga, Prof. C.J.M. Klaassen and Dr A. Jettinghoff on the Specialisation of Judges, the other, on Collegial Courts, by R. Baas MSc, Dr M.T.A.B. Laemers and Prof. L.E. de Groot-van Leeuwen.

Prof. J.D.A. den Tonkelaar delivered his inaugural lecture on Selecting Judges in September 2009. Prof. A.B. Terlouw delivered her inaugural lecture on ‘Fear and Regulation’ in the same month. Prof. R.E.C.M. Niessen held his inaugural lecture on ‘Judicial Reasoning in Tax Cases’ in October 2009. Four PhD theses were defended.

In June 2009 a conference was organized together with the Court of Appeal and the District Court in Arnhem on the Quality of the Administration of Justice. Also in June, researchers specializing in administrative law organized an expert meeting on current developments in administrative procedural law.

Societal impact
The CMR carried out research on behalf of the UNHCR, the 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 also provided to the Council for the Judiciary, the Dutch Refugee Council, FORUM Committee for Aliens’ Affairs, the Dutch Ministry of Justice, 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 also provided to the Council for the Judiciary, the Dutch Refugee Council, FORUM Committee for Aliens’ Affairs, the Dutch Ministry of Justice, 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 ‘Administration of Justice’ programme will organize a conference on ‘Convergence of procedural law’ in February 2010.

Within the ‘Principles of Public Law’ programme Prof. P.P.T. Bovend’Eert – a member of the Board of Editors of ‘The Constitutional Law of the EU Member States’ – will present the initial results of a comparative study on constitutional law in 2010. A PhD project on ‘Withdrawal of administrative decisions, in a European and comparative perspective’ (Dr A.J. Bok and Prof. R.J.N. Schlössels), financed by the Netherlands Organisation for Scientific Research (NWO), will start in 2010. Furthermore, a new research field – ‘Law and Religion’ – will be introduced in 2010.

The Centre for Notarial Law (Prof. F.W.J.M. Schols)
The Centre for Notarial Law (Dutch abbreviation ‘CNR’: Centrum voor Notarieel Recht) was established in 2008. Its key research programme focuses on Notarial Law, in particular on family property law (personal and family law, relationship property law, inheritance law and estate planning). The CNR’s main strengths lie in combining tax and civil law and the cross-fertilization between the legal practice and the academic world. Particular attention is paid to the bearing of these fields on the general law of property and to the combination of fields, for example marital property law, real-estate law.
and company law. CNR researchers seek to provide a scientific foundation for notarial practice.

Research and academic education are closely connected within the CNR.

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 a series called ‘Publicaties vanwege het Centrum voor Notarieel Recht’ (Kluwer Law, currently nine volumes). Prof. J.S.L.A.W.B. Roes delivered his inaugural lecture on notarial ethics and the history of notarial law. ‘Delegation of last wills to third parties’ and ‘the new inheritance tax law’ are research projects that started in 2009 and will continue in 2010.

Societal impact
The interaction between science and practice advocated by the Centre for Notarial Law is based on close ties between the CNR 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), and for the Novex (the Dutch association for executors). They are also involved in several organizations for example in the Commission Succession Law II of the Royal Notarial Association (KNB) and in the Commission Inheritance Tax law of the KNB, in the Board of the Institute for Agricultural Law in Wageningen, in the Stichting tot Bevordering der Notariele Wetenschap and in the Scientific Council and Board of the Thijmgenootschap. Researchers at the Centre are editors and editors-in-chief of major scientific and professional journals.

Future research
Current projects within the Centre 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 and the developments in the legislation on marital property. In 2010 the results of an empirical study on nuptial agreements will be published.