Research Centres of the Faculty of Law

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

The Business & Law Research Centre – Onderzoekcentrum Onderneming & Recht (OO&R) – involves cooperation between the Law Faculty of Radboud University Nijmegen and fourteen prominent, mostly international, law firms and Dutch multinationals: ABP Pension Funds, AEGON NV, AkzoNobel, Allen & Overy, De Brauw Blackstone Westbroek, Clifford Chance, Eumedion, Houthoff Buruma, ING, Loyens & Loeff, NautaDutilh, Pels Rijcken & Droogleever Fortuijn, Rabobank Netherlands and Stibbe.

The Centre conducts fundamental research in ‘Business and Law’. It also offers a comprehensive educational programme for gifted young scholars and is actively involved in a wide variety of postgraduate educational and professional training programmes.

The Centre combines 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.

The four key research programmes are:
• Company Law
• Finance, Security Rights and Insolvency Law
• Business and Patrimonial Law
• Business and Financial Law

A major theme of the research conducted by the Centre in all research programmes is European private law, comparative law and private international law. The Centre, which was established in 1991, is recognized as a research school by the Royal Netherlands Academy of Arts and Sciences (KNAW). In 2009, the accreditation was renewed by the KNAW and is now valid until 2015. The Centre’s

Staff

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. D. Busch (o)
Prof. E.C. Coppens (p)
Prof. D.R. Doorenbos (o)
Prof. J.C.J. Dute (o)
Prof. N.E.D. Faber (o)
Prof. R. Fernhout (e)
Prof. J.H. Gerards (o)
Prof. J.W. van de Gronden (o)
Prof. E. Guild (o)
Prof. J.J. van Hees (o)
Prof. C.M. Hilverda (o)
Prof. C.J.H. Jansen (o)
Prof. P.H.P.H.M.C. van Kempen (o)
Prof. J.J. Kilborn (o)
Prof. E.J.J.M. Kimman (o)
Prof. C.J.M. Klassen (o)
Prof. A.M. Korebrits (e)
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 (p)
Prof. M.P. Nieuwe Weme (o)
Prof. A.G.A. Nijmeijer (p)
Prof. A.J.M. Nuytinck (o)
Prof. M. van Olffen (o)
Prof. A.A. Quaedvlieg (o)
Prof. W.A.K. Rank (o)
Prof. B.P.M. van Ravel (o)
Prof. T. Richter (o)
Prof. J.S.L.A.W.B. Roes (p)
Prof. H.J.B. Sackers (p)
Prof. R.J.B. Schutgens (o)
Prof. V.P.G. de Serière (o)
Prof. C.H. Sieburgh (o)
Prof. G.M.F. Snijders (e)
Prof. G. van Solinge (o)
Prof. J.H.V. Stuyck (o)
Prof. A.B. Terlouw (o)
Prof. J.B. Terpstra (p)
Prof. N. van Tiggele-van der Velde (o)
Prof. J.D.A. den Tonkelaar (e)
Prof. P.C. Vegter (e)
Prof. L.G. Verburg (o)

Prof. H.L.E. Verhagen (o)
Prof. B.P. Vermeulen (p)
Prof. K.C. Wellens (o)

Tenured
Full Professors 11.3 FTE
Associate Professors 6.6 FTE
Assistant Professors 3.0 FTE
Researchers 3.5 FTE
Lecturers 1.0 FTE

Non-tenured
Researchers 3.0 FTE
Lecturers 8.7 FTE
Doctoral candidates 33.8 FTE

educational programme for gifted young scholars is certified by the Accreditation Organization of The Netherlands and Flanders (NVAO).

Research facilities
The Centre houses the Information and Documentation Centre for Business and Law (CIDOR). It has 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 International Working Groups established by the Centre in Company Law, Security Rights, Insolvency Law and Financial Law, the Centre cooperated in 2011 with leading academics from the following universities and research centres:

Adelaide (Australia), Bar-Ilan (Israel), Basel (Switzerland), Beijing – China University of Politics and Law (China), Berlin – Humboldt (Germany), Bern (Switzerland), Bolzano (Italy), Budapest (Hungary), Cambridge (UK), Chicago – John Marshall Law School (USA), Dublin (Ireland), Duke (USA), Edinburgh (Scotland), Geneva (Switzerland), Genoa (Italy), Ghent (Belgium), Göthenburg (Sweden), Hamburg – Max Planck Institute (Germany), Johannesburg (South Africa), Krakow (Poland), Leeds (UK), Leuven (Belgium), Luxembourg (Luxembourg), Madrid (Spain), Marburg (Germany), Melbourne (Australia), Montpellier (France), Münster (Germany), Nottingham (UK), Örebro (Sweden), Oxford (UK), Paris – Pantheon-Sorbonne (France), Pozna (Poland), Pretoria (South Africa), Prague (Czech Republic), Rome – Luiss Guido Carli (Italy), Rutgers-Camden (USA), São Paulo (Brazil), Seoul – Ewha (South Korea), Toledo (Spain) and Toronto – Osgoode Hall Law School (Canada).

The Centre also collaborated with various international organizations (e.g. IMF, UNCITRAL, and INSOL Europe).
Research Centres of the Faculty of Law

In February 2011, Janneke Gerards was appointed Research Professor in the Department of Constitutional Law. Prof. Gerards is an internationally renowned expert on fundamental rights law, equal treatment, judicial review and comparative public law. Central to her research is the relationship between the European Convention on Human Rights, EU law and national law.

Research results

A main topic in company law addressed by the Centre is corporate governance. Extensive research has also been carried out on corporate litigation and alternative forms of dispute resolution.

Dr C.D.J. Bulten’s PhD dissertation examined special court proceedings intended to facilitate dispute resolution between shareholders while, in addition, a new volume has been published which contains essays on various aspects of Alternative Dispute Resolution (ADR), including on arbitration, binding legal advice and mediation. Other important research results in company law include the PhD dissertation of Dr J.J. van den Broek on remaining tax obstacles in cross-border mergers within the EU, and the Centre’s Company Law Department biennial conference on limitations imposed on using corporate forms.

Researchers of the Centre have invested substantially in international and comparative research on insolvency law. A pilot study has been completed on the topic ‘Commencement of Insolvency Proceedings’, which will be published in the Oxford International & Comparative Insolvency Law (ICIL) Series. Within the framework of the ICIL Series, the divergences and common features of domestic insolvency laws from twenty countries across the world are inventoried and critically analyzed. The International Working Group on Security Rights is looking at the future of European security rights. This project involves a comparative study of the existing laws of several European countries with a view to the future of European security rights. This could provide a widely acceptable foundation for any future harmonization of security rights. PhD dissertations in finance, security rights and insolvency law included the thesis of Dr A.D.W. Soedira on composition schemes and the thesis of Dr A.J. Tekstra on set-off by the tax authorities.

Research in European Private Law conducted by the Centre analyses the influence of European law on domestic private law. Prof. A.S. Hartkamp was invited by the Max Planck Institute in Hamburg to deliver the prominent Ernst Rabel Vorlesung. A new international research project initiated by researchers of the Centre entails the forthcoming publication of the Ius Commune Casebook on comparative European Private Law. Prof. C.H. Sieburgh was invited to issue a preliminary report for the Association of Dutch Lawyers on the legitimacy of judgments and law generated by the confrontation of European law and private law.

Other research in Business and Patrimonial law includes the legal analysis of securities trade and related capital markets transactions, private law aspects of securities, the use of securities as collateral in secured transactions, and dematerialized securities and private international law. In the field of receivables financing, a PhD dissertation was published by Dr J.W.A. Biemans on undisclosed assignment of claims.

The Centre has rapidly expanded its research capacities in the field of financial law. A team of international experts has published a major work on the liability of asset managers. Another main area of research is pension funds. Legal and economic essays have been published in a new volume. Other main research outcome includes the inaugural lectures of Prof. D. Busch on the liability of financial supervisory authorities and Prof. V.P.G. de Serière on intervention...
powers in the financial sector. Dr G.T.J. Hoff’s PhD dissertation on ‘Disclosure of price sensitive information’ was published.

Societal impact
The societal relevance of research conducted by the Centre is clearly demonstrated by the turmoil caused by the credit crisis and the current Euro zone crisis. Best practices relating to corporate governance, shareholder activism and financial markets supervision are central to the research of the Centre. A book about Pension Funds was presented during a seminar at the Dutch Central Bank, and organized in conjunction with the Network for Studies on Pensions, Aging and Retirement (NetSPAR). The first annual conference of the Centre’s Financial Law Department was organized in 2011 on the effectiveness of financial supervision in Dutch law.

Most senior researchers occupy key positions in law reform committees, courts, the Netherlands Authority for the Financial Markets, law firms, banks and/or companies. Researchers are also consulted by transnational organizations (e.g. the IMF). The Centre has also participated in consultations on the Dutch Intervention Bill (containing proposals for the implementation of intervention measures in the financial sector) and on the EU Framework for Bank Recovery and Resolution.

Future research
Particular reference should be made to comparative research conducted by the International Working Group on one-tier and two-tier board models in major European countries. It aims to find out how the two models are regulated and how they are actually working, and to what extent a functional convergence between the two models can be detected. The project is a joint initiative of the Centre and the Max Planck Institute Hamburg.

Future research projects relate to the following topics: corporate inquiry proceedings, treatment of contracts in insolvency, secured transactions in comparative law, corporate board structures, administrative enforcement of financial law and combating insolvency fraud.

Particular consideration will be given to establishing international research in the field of company law, secured transactions and patrimonial law. The Centre will also pursue research endeavours within the context of new volumes of its ICIL Series. This major research project was initiated by the Centre in 2010 and is designed as a comparative analysis of core issues of insolvency law in 20 selected countries from across the globe. Published volumes are destined to function as a main source of reference in the field of international and comparative insolvency law. Follow-up comparative research has also been initiated in the field of financial law.

Awards and Acknowledgements
- Miss F.G. Laagland was awarded the Frye stipend for promising female researchers to conduct research abroad.
- The Utrecht Research Master Prize 2011 was awarded to I.V. Aronstein for her Master’s thesis on “European Law and Open Norms”.

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

The Centre for State and Law – Onderzoekcentrum voor Staat en Recht (SteR) – 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 provides a stimulating environment in which high-quality, national and international multidisciplinary research can flourish. SteR includes three research programmes:
- Centre for Migration Law (CMR)
- Administration of Justice
- Principles of Public Law

CMR brings together researchers from various disciplines. Its purpose is to provide a stimulating context for fundamental and applied research 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 research.

The CMR provides a thorough academic training and a stimulating research climate, operating a guest programme that attracts promising PhD students and young post-docs from all over Europe. Research is carried out 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, the Fundamental Rights Agency, Amnesty International and the European Council on Refugees and Exiles.

Researchers at the CMR also contribute to the drafting of new European migration law. They organize international conferences and edit the European Journal of Migration and Law, a series of books on Immigration Law and Policy in Europe, and a yearbook on Dutch and international migration law (Rechtspraak Vreemdelingenrecht).

Researchers working on the theme ‘Administration of Justice’ focus on law in action – the working of the courts, public prosecutors and the legal profession. New developments in procedural law are monitored closely against the background of the principles of effective legal protection. In 2011 special attention was paid to the phenomenon of convergence of civil, criminal and administrative
### Key publications

**Business and Law Research Centre**


**State and Law**

procedural law. Common principles and concepts of legal proceedings are also an important research topic. ‘Administration of Justice’ involves research in four main areas:

- Legislation and case law relating to procedural law, including the position of citizens in adjudication.
- Organizational design and practice of the administration of justice.
- The quality of administration of justice from the points of view of legality, effectiveness and efficiency.
- The legitimacy of the administration of justice, from the perspective of the ethics of legal professionals.

Researchers working on the theme ‘Principles of Public Law’ focus on the main principles of public law from national, European and international perspectives. They investigate the relationship between principles of the democratic constitutional state (i.e. the rule of law, human rights, the democratic order, and accountability) and national and international social developments. The principles are studied with a keen eye on European and global developments. Within the programme, the expertise and know-how of constitutional, administrative, criminal, European and jurisprudential scholars are combined. Research includes exploring the impact of European and International law on fundamental concepts of national law. Due to the Europeanization and internationalization of law these concepts are continuously evolving.

Prof. J. Gerards, an internationally renowned expert in fundamental rights law, was appointed as a research professor in the Department of Constitutional Law. Her research focuses on fundamental rights, equal treatment law, judicial review and comparative public law. The interrelation of the European Convention on Human Rights, EU law and national law plays a central role in her research. In September 2011, Prof. Y. Buruma left the university to join the Dutch Supreme Court. His valedictory lecture discussed the most important developments in criminal law and criminal procedure of the last 10 years.

Awards and acknowledgements

- NWO (Netherlands Organization for Scientific Research) awarded a grant for Prof. Th. Mertens’ research proposal ‘Human Rights and Human Duties: Assessing the Obligations entailed in Human Rights’.
- NWO awarded a grant for Prof. J. Gerards’ PhD project ‘The Core of Fundamental Rights and the European Court of Human Rights’

Collaboration

SteR participates in the International Research Universities Network (IRUN), collaborating with the universities of Münster, Kiel, Leuven, Poitiers, Montpellier, and Exeter. It also has ties with the Max Planck Institute for Foreign and International Criminal Law (Freiburg, Germany), the Challenge project (Challenge Centre for Notarial Law


Dissertations: 16
Scientific publications: 328
Professional publications: 219
Annotations: 213
Landscape of European Liberty and Security), the International Penal and Penitentiary Foundation, the EU-AGIS programme 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.

CMR is responsible for coordinating the European Network on Free Movement of Workers within the EU, which is funded by the European Commission. It 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
CMR researchers are involved in research with the Irish Immigration Council on the implementation of the Family Reunification Directive; in research with the University of Madrid Comillas on Best Practice of Integration measures of the Highly Skilled, and in a research project for the Fundamental Rights Agency about access to justice in discrimination cases.

In 2011 several workshops and seminars were organized by the CMR. Among others, these were about deprivation of citizenship, the Returns Directive, Polish Migrants, about dealing with psychological problems in the asylum procedure, Time and Asylum and the Blue Card Directive. In addition, the CMR-newsletter NEMIS on European migration issues for refugees was launched in 2011.

In 2011 two symposia were organized around the theme ‘Administration of Justice’. The first dealt with the relationship between the judiciary and politics. The second was on complaint procedures against judges and other court personnel. This research was funded by NWO.

Within the programme ‘Principles of Public Law’, the research project Cosmopolitanism in a world of interconnected threats and challenges continued, based on a Vidi grant from NWO Dr. R. Tinnevelt is a participant in the international scientific research community being set up to study ‘Global Governance versus Global Government’. The Research Foundation - Flanders (FWO) has awarded a grant for this project.

A seminar was organized in 2011 on State, Law and Religion. This seminar covered themes like disestablishment, freedom of education, religion and the magistrate, and Sharia and Dutch 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. CMR’s publications have affected both the political and the public debate on a range of issues. Dr A. Böcker and Prof. A.B. Terlouw, the Dutch experts in the EU-funded Network of Socio-Economic Experts in the Non-Discrimination Field, produced in 2011 national reports on active ageing and the economic case for anti-discrimination.

Books published by researchers of the programme ‘Administration of Justice’ were presented to both Queen Beatrix and the President of the Supreme Court.

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).

Prof. Y. Buruma chaired the Admittance Committee Regarding the Evaluation of Completed Criminal Cases. Prof. J. W. van de Gronden is a member of the Committee on International Affairs and of the Commission for Consumer Affairs of the Social-Economic Council (Sociaal-Economische Raad).

Prof. H.J.B. Sackers was a member of the commission that investigated the system of controlling possession of arms for recreational shooting. This commission was established after the shooting incident in a local shopping centre in Alphen aan den Rijn on 9 April 2011.

Future research
The CMR will coordinate the Network on Free Movement of Workers for a period of four years. Research currently funded by the European Commission on new forms on access to asylum procedures and research on monitoring guidelines with regard to traumatized asylum seekers will continue. In 2011 three new PhD students began research projects on pensioned people on the move, on access to legal aid in asylum cases and on experts and migration cases. In 2012 another PhD student will begin research on ethnic registration. In 2012 the CMR will organize conferences on Family Reunification and Social Rights and Citizenship.

Within the programme ‘Administration of Justice’, research on judicial decision-making and on lawyers’ ethics will continue. In 2012, a book will be published on methods of interpretation.
of various court levels in civil, criminal and administrative law (including tax law). Finally, a conference will be organized on the convergence and divergence of process law.

Within the programme Principles of Public Law a PhD student funded by the law firm AKD will start research on the principles of liability.

**The Centre for Notarial Law**  
**(Prof. F.W.J.M. Schols)**

The Centre for Notarial Law – Centrum voor Notarieel Recht (CNR) – was established in 2008. Its key research programme addresses notarial law, in particular family property law (personal and family law, relationship between property law, inheritance law and estate planning). The strength of CNR’s research lies in the combination of tax and civil law and cross-fertilization between legal practice and the academic world. Particular attention is paid to the bearing of these fields on general property law, and to the combination of legal fields, e.g. marital property law, real-estate law and company law. CNR researchers seek to provide a firm foundation for notarial practice.

**Collaboration**

CNR cooperates with ABN Amro Bank NV on estate planning and monitors the academic level of the consultancy services provided by the bank. It also cooperates with the Dutch Foundation for the Professional Education of Notaries (SBN), the Royal Notarial Association (KNB), the Association of Estate Planners in Notarial Practice (EPN), and the Network Notarial Association.

**Research results**

CNR publishes a series called ‘Publicaties vanwege het Centrum voor Notarieel Recht’ (currently 9 volumes). The fifth edition of volume 2 on Inheritance law was published in 2011.

**Societal impact**

There are strong links between the CNR and legal practice. Researchers are actively involved in lectures, training and legal advice and often comment on current issues in the media. Researchers are advisors to the Dutch Government, lecturers (in charge) for the SBN, for the KNB, for the estate planners of EPN, and for Novex (the Dutch Association for Executors). They also participate in the Commission Succession Law II of the KNB and in the Commission Inheritance Tax Law of the KNB, the Board of the Institute for Agricultural Law in Wageningen, the Stichting tot Bevordering der Notariale Wetenschap and the Scientific Council and Board of the Thijmgenootschap.

**Future research**

Continuing projects include the historical development and current legal position of the surviving spouse in Dutch civil law, the legal exegesis of the provisions of last wills, delegation of last wills to third parties, the new inheritance tax law, international aspects of estate planning and developments in the legislation on marital property. The results of an empirical study on nuptial agreements will be published in 2012.