The Business & Law Research Centre – *Onderzoekcentrum Onderneming & Recht (OO&R)* – is a cooperation between the Faculty of Law and fifteen prominent, mostly international, law firms and Dutch multinationals.

The mission of the Centre is:

- to conduct high-quality (national and international) academic research in Business and Law
- to enhance the understanding of the theories which apply to Business and Law in the context of social, economic, political and financial developments
- to encourage practicality in academic research, particularly by analysing the fundamental principles and foundations of (business-oriented) private law
- to explore and initiate applications of academic research (e.g. in the area of national and international rules, regulations, principles and best practices)
- to educate and supervise Masters students and young researchers.

The four key research programmes of the Centre are:

- Business and Patrimonial Law
- Finance, Security Rights and Insolvency Law
- Company Law
- Financial Law.

A major theme of research in all programmes relates to European private law, comparative law and private international law.

The Centre, which was established in 1991, is recognized as a research school by the KNAW. In 2014 the Centre was evaluated by an International Peer Review Committee. The committee considered research conducted by the Centre to be excellent and emphasized its success in strengthening its international profile.

The Centre, which offers a comprehensive Research Masters programme to gifted students (certified by the Accreditation Organisation NVAO), is actively involved in a wide range of postgraduate educational and professional training programmes.

**Research facilities**

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

**Collaboration**

The unique collaboration with its partners has led to cross-fertilization between legal practice and the academic world. The Centre has regulations, which dictate that all parties involved guarantee academic independence. The following partners participate in the Centre: AEGON, Akzo Nobel, Allen & Overy, APG Asset Management, De Brauw Blackstone Westbroek, Clifford Chance, Freshfields Bruckhaus Deringer, Houthoff Buruma, ING Bank,
Loyens & Loeff, NautaDutilh, Pels Rijcken & Droogleever Fortuijn, Rabobank Netherlands, Stibbe and Stichting Eumedion.

The Centre encourages international cooperation. There is close collaboration with: the Chair in Corporate Finance (Nijmegen School of Management), the Max Planck Institute for Comparative and International Private Law (Hamburg, Germany), the Nottingham Trent University (UK) and the Network for Studies on Pensions, Ageing and Retirement (Netspar, Tilburg). New options are currently being considered to capitalize on existing ties with the University of Oxford (UK) to establish structural collaboration through joint research projects and research mobility programmes. Within the framework of International Working Groups (IWGs) established by the Centre in financial law, agency law, insolvency law and European law, there is structural collaboration with leading academics and practitioners from universities and institutions in over 20 countries. The Centre also plays an active role in various projects of the European Commission and international GO/NGOs (e.g. the IMF and INSOL Europe).

• Prof. Carla Sieburgh regularly conducts visiting research at the Department of Law of the European University Institute.
• Irene Aronstein (LL.M.), Sanne van Dongen (LL.M.) and Roderic ter Rele (LL.M.) completed a visiting research position at the Max Planck Institute for Comparative and International Private Law in Hamburg.
• Kim Geurts (LL.M.) completed a visiting research position at St. John’s University, New York.

Research results

The creation of the European Banking Union results in a historical shift of powers from the Eurozone Member States to the European Union. The IWG on the European Banking Union, which consists of leading scholars and practitioners in the financial sector, has examined the effects of the creation of the Union on the daily supervision of large banks in Europe and has also analysed the position of bank creditors and shareholders. The thematic approach

René Maatman (Professor of Asset Management) and Mark Heemskerk (Professor of Pension Law) obtained a research grant from Netspar for their project ‘Pension rights and ownership: a legal analysis in an economic context’.

**Staff**

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**Research funding**

- Core: 7.04 FTE
- Grants: 1.28 FTE
- Contracts: 0.67 FTE
- Researchers: 1.56 FTE
- Lecturers: 0.4 FTE
- Non-tenured Researchers: 1.82 FTE
- Lecturers: 4.52 FTE
- Doctoral candidates: 14.86 FTE
Key publications


Dissertations: 4
Scientific publications: 120
Professional publications: 85
Annotations: 83

A strong area of research is international and comparative insolvency law. A permanent network of insolvency experts from 20 countries across the globe contribute to the Oxford International and Comparative Insolvency Law Series. In 2015, a volume on ‘Ranking and Priority of Creditors’ was finalized. This volume deals with what many would regard as the raison d’être of insolvency law: the creditors’ claims. To run insolvency proceedings effectively, insolvency law must enforce ‘collectivization’ on the debtor’s creditors. Their claims must be ‘translated’ from the largely bilateral world of debtor/creditor law to the world of collective insolvency proceedings which are designed to resolve the debtor’s general default.

The collapse of the Lehman Brothers group in September 2008 triggered a shockwave in global financial markets and it is often considered to be the defining moment of the financial crisis. Many issues encountered in bankruptcy proceedings opened against entities belonging to the Lehman Brothers group were unprecedented in terms of scope and complexity. Substantial efforts were made to address these issues in the absence of pre-existing public knowledge. In collaboration with key parties in the proceedings and independent third party experts, the Centre has prepared a volume – to be published in 2016 by Oxford University Press – containing main lessons from the Lehman proceedings. Another research project analyses the interaction of agency law and specific commercial contexts. The comparative approach provides innovative perspectives and insights, as well as practical guidance on solving commercial problems. A book published by Oxford University Press will be launched in collaboration with the Commercial Law Centre of the University in Oxford during an international seminar at Brasenose College, Oxford. A large-scale research project on the horizontal (private law) effects of European Union Law was completed in 2015. The outcome of this will be published in a separate volume in the prominent Ius Commune Casebooks series.

Societal impact

Legal research nearly always relates to legal practice and is therefore by its nature of societal relevance. The Centre closely cooperates with and advises external partners such as law firms, courts, government bodies, ministries, NGOs and European organisations. Many publications – mainly papers in professional journals and case notes – are written with legal practice in mind. Academic publications also provide a solid foundation for legal practice. Researchers at the Centre regularly participate in national and international public advisory bodies. The results of this advisory work are generally made accessible for judges, lawyers, politicians, students and the general public. Numerous researchers at the Centre contribute to the Centre for Post-academic Legal Education (CPO), the leading provider of post-academic legal education in the Netherlands. The Centre has influenced public debate on a wide variety of topics which are of direct relevance to financial and commercial legal practice. Research projects and seminars relating to the appeal of the Netherlands as a country of incorporation, the European Banking Union, price-sensitive information in capital

covers the Single Rulebook and CRD IV, the Single Supervisory System, and the Single Resolution Mechanism from a legal and economic perspective. Key issues such as the judicial protection of supervised credit institutions, implications for financial market governance, and risk management and compliance, are examined alongside case-studies. A book – published bij Oxford University Press – was presented during an international conference on 24 September 2015 at the Dutch Central Bank in Amsterdam.
markets, outsourcing in the financial sector and current issues of pension law are important examples.

The Centre has been commissioned to carry out two research projects by the Dutch Ministry of Security and Justice:

- ‘Businesses in financial distress and the position of employees’: this project aims to analyse whether legal reform is needed regarding the legal position of employees and the preservation of employment opportunities when businesses are in financial distress.
- ‘Foreign investments and national security’: this project aims to analyse to what extent shareholder positions in Dutch operating companies can provide access to (confidential) information and grant influence on decisions which may have an impact on national security.

Future research
The financial crisis exposed many weaknesses in the 2007 MiFID regime. In view of this, the 2007 MiFID regime will be replaced by the MiFID II regime in January 2017. MiFID II aims to strengthen the framework for the regulation of markets in financial instruments, including where trading in such markets takes place over-the-counter (OTC), in order to increase transparency, better protect investors, reinforce confidence, address unregulated areas, and ensure that supervisors are granted adequate powers. MiFID II will have a major impact on investment firms and financial markets. Participants in the project are leading scholars with broad practical experience and leading practitioners in the field. Research collaboration within the context of the Oxford International and Comparative Insolvency Law Series will be furthered within the context of a new project on the treatment of secured creditors in insolvency proceedings. The course of insolvency proceedings and the prospects of corporate rescue are significantly influenced by security rights granted to pre-commencement financiers of the debtor. The all-embracing nature of such an security packages often enable secured creditors to block a composition or going concern scenario, which could otherwise have preserved viable businesses in financial distress. An IWG of insolvency experts will be analysing the position of secured creditors in insolvency proceedings (e.g. enforcement rights, ranking and participation rights). New domestic legislation of participating countries aimed at promoting corporate rescue and introducing new pre-insolvency enforcement routes (e.g. pre-packaged arrangements) will also be discussed. The recent appointment of Prof. Guido Ferrarini (University of Genoa) to the Van der Grinten chair of the Centre strengthens international collaboration in the field of financial law. A new research project will be initiated by Prof. Guido Ferrarini and Prof. Danny Busch on ‘Corporate governance in the financial sector’.

New research initiatives include topics such as the private law treatment and legal protection of big data (in collaboration with researchers of the Digital Security Group of the Institute for Computing and Information Sciences, Radboud University), the liability of directors and supervisory directors, cross-border conversion of companies and financing the supply chain.

Awards and acknowledgements
- Prof. Danny Busch has been appointed as a member of the Disciplinary Commission of Banks.
- Prof. Michael Veder was appointed as a visiting professor at the Nottingham Law School and is a member of the European Commission Group of experts on Restructuring and Insolvency Law.
- Marloes van de Moosdijk (LL.M.) was awarded the annual Frye stipend to conduct research abroad within the context of her PhD research on (unjustified) enrichment in EU law.
The Centre for State and Law – Onderzoekcentrum voor Staat en Recht (SteR) – focuses on key issues and basic principles of public law. Its researchers critically analyse national, European and international developments in constitutional, administrative and criminal law.

From a methodical perspective, the research carried out within SteR is characterised by the broad scope of its positive law-oriented and dogmatic approach, with a strong emphasis on practice; a legitimate place for meta-juridical research, based on the premise that conceptual analyses and empirical evidence can be necessary for proper positive law-oriented/dogmatic research; a specific emphasis on national legal principles within a changing and challenging international legal framework.

SteR consists of two research programmes:
• Principles of Public Law
• Migration Law (CMR)

‘Principles of Public Law’ brings together researchers with a focus on the main principles of public law. They analyse the relationship between principles of the democratic constitutional state (the rule of law, fundamental human rights, democratic accountability, access to justice) and 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, criminal, administrative, European and jurisprudential scholars. Moreover the programme focus on law in action – the workings of 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 and access to justice. Methods used to understand the impact of civil, criminal and administrative law at various court levels are also an important research topic.

‘Migration Law’ brings together researchers from various disciplines to provide a stimulating context for fundamental and applied research on international and national migration law and the protection of minorities. It is unique in Europe, thanks to its interdisciplinary approach and its international staff, who include lawyers, sociologists, anthropologists and political scientists.

Collaboration
SteR’s policy is to continue exploring options for international cooperation and the institutionalization of international contacts. Incorporating international and European law in legal research is

The number of Europeans aged over 80 is rapidly increasing. New solutions are needed for the provision of long-term care.
essential in a world of interwoven legal systems. The board intends to form – or join – European consortiums in key areas, including Migration Law, Fundamental Rights and Security-related issues.

The SteR participates in numerous international projects and networks, the Odysseus Network of Experts in European Migration and Asylum Law, which is coordinated by the Université Libre de Bruxelles (Belgium), the academic Netzwerk Migrationsrecht (Germany), the Glasgow Refugee, Asylum and Migration Network (GRAMNet) (UK), the Working Group on Policing of the European Society of Criminology, and the International Penal and Penitentiary Foundation (IPPF). It also has close ties with the Max Planck Institute for Foreign and International Criminal Law (Freiburg, Germany), National Taiwan University, and several universities participating in the International Research Universities Network (in particular with the University of Glasgow, the University of Münster and the University of Poitiers). Prof. Elspeth Guild and Dr Paul Minderhoud are experts in the new Network on Free Movement of Workers and Social Security Coordination, which is funded by the European Commission. In 2015 the Brazilian foundation for scientific research ‘Capes’ and NUFFIC cofounded a project in which a small group of Kant scholars, both from Brazil and SteR investigated a renewed interpretation of Immanuel Kant’s *Metaphysics of Morals* (1797). In order to reach the objectives of this project, academic exchanges have (and will continue to) take place, joint conferences have (and will) be organized and interesting contributions have (and will) be published. Directors of this programme are Prof. Thomas Mertens and Prof. Alessandro Pinzani (Florianopolis).

In the Netherlands, SteR collaborates with the Council for the Judiciary, the Ministry of Security and Justice, as well as several courts and municipalities. Within the University, SteR researchers collaborate with researchers from the Faculty of Management in the interdisciplinary network 'EUROPAL', which focuses on the Europeanization of Policy and Law.

Research results

In 2015 SteR organised several seminars. Dr Eva Rieter and Rosa Möhrlein organized a conference on ‘Urgency and Human Rights’ (29-30 May) together with researchers of Ghent University and Seconda Università di Napoli, Italy. Dr Hansko Broeksteeg en Dr Ronald Tinnevelt organised a seminar on ‘The political party: an anomaly in Dutch constitutional law’ (July 2015). In close collaboration with Ghent University a seminar was organised...
Key publications


Dissertations: 6
Scientific publications: 169
Professional publications: 134
Annotations: 178

on the ‘Procedural review in fundamental rights cases’ (Ghent, Belgium, 21-22 May). In 2015, the law faculty hosted the annual ‘Constitutional Law Conference’, about the constitutional relations within the Kingdom of the Netherlands, with contributions by Dr Hansko Broeksteeg, Dr Joost Sillen en Prof. Ben Vermeulen. Prof. Raymond Schlössels, Prof Roel Schutgens and Dr Hans Peters organised, in close cooperation with the president and two members of the Supreme Court, a seminar on 100 years of public law jurisprudence by the Supreme Court. CMR organised a seminar on the Recast Reception Conditions Directive (2013/33/EU) (December 2015) and a CMR/ Europal seminar on ‘New perspectives on the study of decision making in migration offices’ (September 2015).

Prof. Henri De Waele was Visiting Professor at National Taiwan University and National Cheng Chung University and delivered a keynote speech on the European Public Prosecutor’s Office at a conference hosted by the Taiwan Ministry of Justice. Prof. Piet Hein Van Kempen gave a key note speech at the 13th UN World Congress of Crime Prevention and Criminal Justice, on ‘Institutional Corruption and Fraud, Criminalization and the Problem of Imprisonment’ (13 April 2015, Qatar). Prof. Paul Bovend’Eert spoke at the 12th Asian law Institute International Conference (Taiwan University), on ‘Judicial Independence and separation of powers’. Dr Paul Minderhoud gave keynote speeches about ‘Frontier Workers in the EU: A Comparative report’ at the seminar on 30 years of free movement of workers between Portugal and Spain, (Lisbon, October 2015) and ‘Solidarity (still) in the making or a bridge too far?’: Presentation at the ACELG’s Annual Conference (Amsterdam, November 2015). Prof. Janneke Gerards delivered the ‘Rechtspraaklezing 2015’ the key note speech during the annual conference for judges in The Netherlands (Leiden, September 2015).

Societal impact
Legal research nearly always relates to legal practice and is therefore by its nature of societal relevance. SteR closely cooperates with and advises external partners such as law firms, courts, government bodies, ministries, NGOs and European organisations. Many publications – mainly papers in professional journal and case notes – are written with legal practice in mind. Academic publications also provide a solid foundation for legal practice. One aspect of the centre’s mission is to make academic research more practice-oriented, for example by preparing best practices, legislative proposals and EU directives. SteR researchers regularly participate in national and international public advisory bodies. The results of this advisory work are generally made accessible for judges, lawyers, politicians, students and the general public. Numerous SteR researchers contribute to the Centre for Post-academic Legal Education (CPO), the leading provider of post-academic legal education in the Netherlands.
Director: Prof. Roel Schutgens

Roel Schutgens was appointed as a Full Professor in Jurisprudence in 2010. After his study of Dutch Law at the Radboud University Nijmegen (cum laude, 2004), he was a PhD Fellow at the Department of Constitutional and Administrative Law in Nijmegen from 2004 to 2009. He obtained his PhD cum laude in 2009 with the thesis Onrechtmatige wetgeving (Unlawful Legislation), a study on the various forms of judicial review of legislation within the Dutch legal system. He has been the chairman of the SteR board since December 2015. Roel Schutgens’ research interests include state liability, legislation, judicial review, and general constitutional law. He is a member of the board of Themis, the oldest Law journal in the Netherlands and he is a deputy judge at the Gelderland District Court.

In 2015, Prof. Janneke Gerards participated in the Commissie-Wolfsen, the committee that advised the Dutch government on a reform of the system of state-funded legal aid. In response to the increasing number of asylum seekers in the Netherlands and the installment of a refugee reception centre in the vicinity of Nijmegen, CMR took several initiatives to support lawyers and volunteers and in offering lectures to the refugees themselves.

Dr Sven Brinkhoff’s dissertation on ‘Starting information for a criminal investigation’ had broad societal impact. The book attracted attention in national news media such as NRC, Trouw, KRO-Brandpunt, Een Vandaag, Radio 1, Radio 5, BNR).

Future research

Within the programme ‘Principles of Public Law’ research on sources of constitutional law, form of state, form of government and political system, government powers and their limits, vertical division of powers, the judiciary and fundamental rights will continue.

Dr Karin Zwaan will contribute to an AHRC research project Researching Multilingually: at the Borders of Law, Health, Conflict and State Security’

On the occasion of its 20th anniversary in 2016, CMR will organise a conference on the current challenges in migration (law).

Grants and Awards

- On 28 September 2015, the Royal Netherlands Academy of Arts and Sciences installed Prof. Janneke Gerards as a new elected member.
- NWO and the German funding agency DFG awarded Dr Anita Böcker and Dr Cornelia Schweppe (University of Mainz) an Open Research Area in Europe grant for their project ‘Emergence and Significance of Transnational Care Arrangement’.
- As of 1 September 2015, the European Commission selected the Centre for Migration Law as a Jean Monnet Centre of Excellence in EU Citizenship and Migration.
- Dr Asuncion Fresnoza-Flot received a 2 years-fellowship for her project ‘Marital break-up and state policies: A case study of Filipino migrant women in the Netherlands, Belgium and Germany’ from the Radboud Excellence Initiative.
- The Dutch Ministry of Security and Justice awarded Prof. Piet Hein van Kempen and Dr Masha Fedorova a grant for their project ‘Foreign Terrorist Fighters’: Criminalising stay in a terrorist territory? An evaluation in light of criminal law, human rights and public international law parameters’ and another grant for the project ‘International law and cannabis’.
- The Dutch Ministry of Security and Justice awarded Prof. Leny de Groot van Leeuwen, Prof. Miek Laemers and Dr Anita Böcker a grant for the Project ‘The transfer of judicial tasks to governing bodies’
- Dr Rian de Jong, Dr Hansko Broeksteeg and Prof. Jan Terpstra received a grant from the Dutch Ministry of Security and Justice for a project on ‘Public order law’ (in cooperation with Utrecht University)
- Prof. Jan Terpstra and Dr Bas van Stokkum received a Police Academy-grant for a project on ‘Changes in organisation and tasks of the police’. 

In 2015, Prof. Janneke Gerards participated in the Commissie-Wolfsen, the committee that advised the Dutch government on a reform of the system of state-funded legal aid. In response to the increasing number of asylum seekers in the Netherlands and the installment of a refugee reception centre in the vicinity of Nijmegen, CMR took several initiatives to support lawyers and volunteers and in offering lectures to the refugees themselves.