Research Centres of the Faculty of Law

Internationalisation
The faculty’s policy is to continue exploring options for international cooperation and strengthening existing contacts. Incorporating international and European law in legal research is crucial in a world of interwoven legal systems. The board aims to get involved with European consortia in certain key areas (Insolvency Law, Financial Law, European Private Law, Migration Law, Fundamental Rights and Security issues), in anticipation of the new European Framework programme Horizon 2020.

Societal relevance
Legal research almost always relates to legal practice and is therefore automatically of societal relevance. The Nijmegen faculty cooperates closely with – and advises – external partners such as civil-law notary offices and law firms, financial organisations, international businesses, courts, government bodies, ministries, NGOs and European organisations.

Publications, such as professional journal papers and case notes, are written with the legal practice in mind. The Centre for Post-academic Legal Education (Centrum voor Postacademisch Juridisch Onderwijs, CPO) provides postgraduate education for lawyers and judges. Academic publications also provide a solid foundation for the legal practice. One element of the research centres’ mission is to make academic research more practical, for example by preparing best practices, legislative proposals and EU directives.

The Business & Law Research Centre (Prof. Corjo Jansen)
The Business & Law Research Centre – Onderzoekcentrum Onderneming & Recht (OO&R) – is based on cooperation between the Law Faculty of the Radboud University Nijmegen and fifteen prominent, mostly international, law firms and Dutch multi-

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 of the Centre are:
1. Company Law
2. Finance, Security Rights and Insolvency Law
3. Business and Patrimonial Law
4. Business and Financial Law

A major theme of the research conducted by the Centre in all research 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 2009, the accreditation was renewed by the KNAW and is now valid until 2015. The Centre’s educational programme for gifted young scholars is certified by the Accreditation Organization NVAO.

The research of the Centre was evaluated in 2012 by a mid-term review committee consisting of Prof. Jan Lokin and Prof. Peter Dortmond. The Centre and its individual research programmes received the highest scores (‘excellent’).

The OO&R has its own set of regulations, which dictate that all parties involved guarantee academic independence.

Research facilities
The Centre houses the Information and Documentation Centre for Business and Law (CIDOR), which has a collection of books, journals and electronic publications on international and domestic Business Law that is unique in the Netherlands.

Collaboration
The Centre has excellent international connections. The OO&R’s board strives for international cooperation in all of its research programmes. There is close collaboration with the Max Planck Institute in Hamburg (Germany). Within the framework of International Working Groups in Company Law, Security Rights, and

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Insolvency Law and Financial Law, the Centre cooperated in 2012 with leading academics and practitioners from universities and research centres in Europe, the USA, Asia and Australia. Eighty foreign researchers are involved with the OO&R’s research.

The Centre has also collaborated with various international organizations (e.g. INSOL Europe) and participated in existing international networks (e.g. the Ius Commune Casebook Project).

All PhD candidates at the OO&R can carry out part of their research abroad and many make use of this option (for example in Berlin, Montpellier, Poitiers, Oxford and universities in the United States).

Research results
A major project in company law is corporate governance. An International Working Group established by the Centre and the Max Planck Institute in Hamburg extensively analyses one-tier and two-tier board models in a number of European countries. The manuscript of the book ‘Forum Europaeum on Corporate Boards in listed companies’ is currently under review by Oxford University Press. A separate volume has been published on the position of shareholders. The ‘Handboek Onderneming en Aandeelhouder’ (Handbook for Companies and Shareholders) discusses the legal position of shareholders, including holders of listed securities, as well as the changes recently implemented as a result of the Flex BV legislation. A new edition of a handbook on various corporate entities was published in the prominent Asser Series.

The launch of the Oxford International and Comparative Insolvency Law Series (the ICIL Series) was a major milestone. Within the framework of this series, the discrepancies and common features of domestic insolvency laws in twenty countries across the world will be registered and critically analyzed. The project’s ambition is to present the material within a structure and with a focus that will benefit not only academic jurists but practising lawyers as well. The first volume – on the ‘Commencement of Insolvency Proceedings’ – which was published in 2012, discusses the types of insolvency proceedings available to general business debtors, the goals and main characteristics of insolvency proceedings, commencement requirements, main participants, the effects of the opening of insolvency proceedings and the conclusion of such proceedings. A collection of essays was published in the series ‘Onderneming en Recht’ (Business and Law) on the topic ‘Treatment of contracts in insolvency’. Research was also conducted on security rights. A third and substantially revised edition was published on the rights of pledges in the Monografieën BW Series. Two inaugural lectures were delivered on insolvency fraud and secured transactions in Central Europe. A PhD dissertation was published on the application of avoidance provisions in insolvency.

A major study in patrimonial law focuses on the sale of real estate properties. It addresses issues such as immovable assets, the conclusion of sale contracts, the obligation of the seller and buyer and insurance-related aspects. It also analyses several clauses which are regularly used in real estate sale transactions. Fundamental research is conducted in European Private Law. Important research outcomes include a study of the influence of European law on national private law, in particular the general part of private law. The various sources of law are discussed in sequence: the Treaty on the Functioning of the EU, the general principles of Union Law, a range of directives and regulations, and the European Convention on Human Rights and Fundamental Freedoms. PhD degrees were awarded for theses on Assignment, Possession of Property and Binding Legal Advice.

The Centre published a volume on the Liability of Asset Managers with Oxford University Press. This book contains the only comparative analysis of the law of asset manager liability in the major European jurisdictions, the US and Canada. It was presented during a symposium organized by the Centre and hosted by one of the partners. Another symposium organized by the centre was on the topic ‘Crisis and financial law’. Various aspects of the financial crisis were discussed from a legal and economic perspective. A book written by staff members from a partner of the Centre analyzed the regulation of Over-The-Counter (OTC) derivative markets in the EU and US. The Centre also contributed to the Official Commentary on the UNIDROIT Convention on Substantive Rules for Intermediated Securities.

Societal impact
The Centre has built up knowledge and influenced public debate on a wide variety of topics which are of direct relevance to financial and commercial legal practice. Research topics relating to corporate governance, insolvency fraud, secured transactions, receivables financing, asset management and distressed financial institutions are important examples.

Future research
Future research projects will focus on notarial corporate law, insolvency fraud, termination of limited real rights, liability, insurance & ADR, liability in the financial sector, the administrative enforcement of financial law, and recovery and resolution measures vis-à-vis financial institutions in distress. International Working Groups will work on volumes dealing with the treatment of contracts in insolvency, transnational securities law, the horizontal (private law) effects of EU Law and alternative investment funds in Europe. Permanent research is conducted by the Centre within the framework of several volumes published in the prominent Asser Series.
Awards and acknowledgements

- Dr Bas de Jong was awarded the Harry Honée PhD dissertation prize for his thesis ‘Causation and damages in securities fraud cases’. This prize is awarded every three years to the best PhD dissertation in corporate law. De Jong was also awarded a grant by the Niels Stensen Stichting to conduct research as a visiting scholar at Cambridge University in the UK.
- Prof. Mop van Tiggele-van der Velde received the 2012 Hudig-Langeveldt prize, in recognition of her work on insurance law.

Research Centre for State and Law
(Prof. Raymond 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:
1. Centre for Migration Law (CMR)
2. Administration of Justice

The 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. It is unique in Europe due to its interdisciplinary approach and its international staff, who includes lawyer, sociologists, anthropologists and political scientists. It is also known for its comparative international research.

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 2012 special attention was paid to the phenomenon of convergence of civil, criminal and administrative procedural law. Methods used to understand the impact of civil, criminal and administrative law (including tax law) at various court levels also represent an important research topic.

Researchers working on the theme ‘Principles of Public Law’ focus on the main principles of public law from a national, European and international perspective. They analyse the relationship between various principles of the democratic constitutional state (i.e. the rule of law, human rights, the democratic order and accountability) as well as 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. Research includes exploring the impact of European and International law on fundamental concepts of national law.

The research at the Centre was evaluated in 2012 by a mid-term review committee. The Centre and its individual research programmes received high scores (‘excellent’ and ‘very good’).

Awards and acknowledgements

- The NWO (Netherlands Organization for Scientific Research) awarded a grant for Prof. Janneke Gerards’ PhD project ‘Active protection of fundamental rights in the EU – can a doctrine of positive obligations be incorporated by the EU courts?’
Key publications

Business and Law Research Centre


State and Law


The NWO awarded a grant for Prof. Jan Terpstra’s PhD project ‘Trust in the police in an international comparative and longitudinal perspective’

The NWO awarded a Veni grant for research by Dr Nadia Sonneveld on women’s rights and Sharia law in post-uprising Egypt

The Dutch Ministry of Justice awarded Prof. Janneke Gerards and Dr Joseph Fleuren a grant for a comparative research project on the effect of the European Convention of Human Rights on national law

The Ministry of Infrastructure and the Environment and the Ministry of Home Affairs jointly awarded a grant for Prof. Tonny Nijmeijer’s research project on ‘Renewal of land policy instruments relative to the Infrastructural Code and the Expropriation Code’.

Collaboration
The SteR participates in numerous international projects and networks, including the International Research Universities Network (IRUN) and the Odysseus Network of Experts in European Migration and Asylum Law. The CMR is responsible for coordinating the European Network on Free Movement of Workers within the EU, which is funded by the European Commission.

Research is carried out for international organizations such as the EU, the Council of Europe, the United Nations High Commissioner for Refugees (UNHCR), the International Organization for Migration, the Fundamental Rights Agency (FRA), Amnesty International and the European Council on Refugees and Exiles.

The SteR also has ties with the Max Planck Institute for Foreign and International Criminal Law (Freiburg, Germany), the Max Planck Institute for Foreign and International Public Law (Heidelberg, Germany), the University of Bergen, the International Penal and Penitentiary Foundation (IPPF), and the Working Group on the Comparative Study of Legal Profession.

Within the Netherlands, the SteR collaborates with the Council for the Judiciary, the Ministry of Justice, several courts, other universities, municipalities and lawyers.

Research results
CMR researchers are involved in research with the Irish Immigration Council on the implementation of the ‘Family Reunification Directive’ and with the University of Madrid Comillas on ‘Best Practice of Integration measures of the Highly Skilled’. Moreover, the CMR participates in the Network of Socio-economic Experts in the anti-discrimination field (SEN) for which two reports were produced on governance levels and policy on discrimination against the elderly in housing and religious discrimination. In 2012 several workshops and seminars were organized by the CMR. Topics included the implementation of the ‘Blue Card Directive’ and citizenship within the context of a Jean Monnet project in which the University of Manchester and the University of Comillas, Madrid, participate.

Centre for Notarial Law


Within the programme ‘Administration of Justice’ special attention was paid to the methodology of judicial law-making in fourteen selected fields of law. In 2012 two symposia were organized around the theme ‘Administration of Justice’. The first dealt with the convergence and divergence of process law. The second was on methods of interpretation of law in several courts.

Within the programme ‘Principles of Public Law’, PhD titles were awarded in 2012 to Lieske de Jongh and to Néda Armbruster. Several national and international workshops and colloquia were organized. These included the philosophical colloquia ‘Hans Kelsen and International Law’ and ‘Global Justice - Global Democracy’ and the European expert seminar on ‘Shaping Rights: the Role of the European Court of Human Rights in determining the scope of human rights’. National Taiwan University Law School organized a colloquium in cooperation with SteR, which took place in Taipei, Taiwan. Prof. Thomas Mertens published a unique textbook on the topic of people and human rights. Prof. Raymond Schlössels en Dr Lise Kjellevold-Hoeeege participated in a large European project on the protection of legitimate expectations under administrative law (‘vertrouwensbeginsel’). Prof. Piet Hein van Kempen gave the keynote speech ‘Pre-trial detention’ at the annual international conference of Europris (Rome). Prof. Johan van de Gronden gave a speech on ‘Services of General Economic Interest in EU competition law’, at the conference ‘Aims and Values in EU Competition Law’ at the University of Copenhagen.

Societal impact
SteR researchers are often asked for advice by national and international public bodies. Research results are made accessible for judges, lawyers, politicians, students and the general public. For example, Rechtspraak Vreemdelingenrecht (Jurisdiction in Refugee Law), which is edited by the CMR, is now also accessible online. Results of the programme ‘Administration of Justice’ published by researchers at SteR were used by the Council for the Judiciary as well as by distinguished courts. Information relating to the Free Movement of Workers Network is of vital importance for the activities to the European Commission (DG Employment). CMR was involved in developing quality terms for a course on Migration in the new education programme of the Dutch Lawyers Association (NOVA). Dispute resolution in education was a topic that was elaborated during a conference attended by both jurists in academic law and politicians in collaboration with the Dutch Association for Education Law (NVOR).

Future research
The CMR will concentrate its research on the Europeanization of migration law. During the next decade European legislation will receive less attention. There will be more emphasis on consolidation, correct implementation and harmonization of legislation through cooperation. The CMR will further extend the project started with the Faculty of Management Sciences of the University on the implementation of EU Directives. Special attention will be paid to the practical consequences of migration law and policies. Several PhD studies will be carried out, including one on the registration of personal data in the public and semi-public sectors, education, health care and policing, and two on legal aid and expert advice in asylum procedures. In 2013 three PhD theses are expected to be defended.

Within the programme ‘Administration of Justice’, research on judicial decision-making and lawyers’ ethics and on the jurisdiction of the European Court of Justice will continue.

The Centre for Notarial Law
(Prof. Freek Scholts)

The Centre for Notarial Law – Centrum voor Notarieel Recht (CNR) – was established in 2008. Its research focuses on notarial law, in particular family property law (personal and family law and the relationship between property law, inheritance law and estate planning). The strength of the 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 impact 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
Nationally, the CNR cooperates with ABN Amro Bank NV on estate planning and monitors the academic level of the consultancy services provided by the bank. The CNR 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
The CNR publishes a series called ‘Publicaties vanwege het Centrum voor Notarieel Recht’ (currently 9 volumes). Staff members of the CNR write articles for authoritative national and/or international academic journals and professional journals. Important research is carried out in cooperation with and – in some cases is supervised by – external researchers in order to ensure academic integrity. Ongoing research into marriage contracts and the ‘Ervens zonder financiële zorgen?!’ report that was presented to the Dutch House of Representatives is one example. In the current reporting period the focus was on international family property law and this will remain an important area of expertise in future.
Director: Prof. Leonard Verburg

Leonard Verburg is Professor of Employment Law at Radboud University Nijmegen and, since 1 March 2013, he has been Vice Dean for Research at the Faculty of Law. He is a member of the Advisory Board of the Business and Law Research Centre (OO&R). He is also a member of the board of the foundation which supervises the education programmes of the Dutch Bar Association. Prof. Verburg is editor-in-chief of the journal Arbeidsovereenkomst, a member of the editorial board of the journal Arbeidsrechtelijke Annotaties and a member of the advisory board of Postacademische Leergang Arbeidsrecht, one of the oldest postgraduate programmes in the field of employment law. He is founder member of the curatorium of the annual Nationaal Arbeidsrecht Congres. In 2010, Prof. Verburg was appointed as a substitute judge in the Court of Appeal in the Hague.

Societal impact

There are strong links between the CNR and legal practice. Researchers advise the Dutch government on several private law issues and lecturers-in-charge work 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 Stichting tot Bevordering der Notariële Wetenschap and the Scientific Council and Board of the Thijmgenootschap. The CNR’s research creates an important academic foundation for notarial practice relating to family property law in the Netherlands.

Future research

Continuing projects include the historical development and the 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. ’Wills for persons lacking will-making capacity’ is a new project.